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Draft Amendments to the Income Tax Regulations Relating to Retirement Savings

Proposed Regulations and Explanatory Notes

Published by
The Honourable Paul Martin, P.C., M.P.
Minister of Finance

June 1998

Canada



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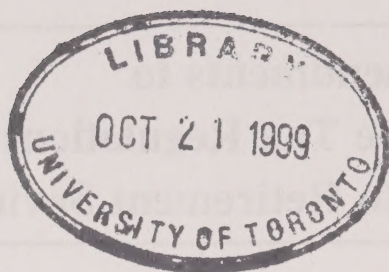
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DRAFT AMENDMENTS TO THE INCOME TAX REGULATIONS

1.(1) Subsection 4900(3) of the *Income Tax Regulations* is replaced by the following:

(3) For the purpose of paragraph (i) of the definition "qualified investment" in section 204 of the Act, a contract with a licensed annuities provider for an annuity payable to an employee who is a beneficiary under a deferred profit sharing plan beginning not later than the end of the year in which the employee attains 69 years of age, the guaranteed term of which, if any, does not exceed 15 years, is prescribed as a qualified investment for a trust governed by such a plan or revoked plan.

(2) Subsection (1) applies to annuity contracts acquired after 1996, except that

(a) it does not apply to a contract where the annuitant attained 70 years of age before 1997; and

(b) in applying subsection 4900(3) of the Regulations, as enacted by subsection (1), to a contract where the annuitant attained 69 years of age in 1996, the reference in that subsection to "69 years of age" shall be read as a reference to "70 years of age".

2.(1) Subparagraph 6804(6)(c)(ii) of the Regulations is replaced by the following:

(ii) the amount that would be the individual's pension adjustment for the year in respect of the employer if

(A) all contributions made under the foreign plan in the year in respect of the individual were prescribed by this subsection,

(B) where the year is 1996, section 8308.1 were read without reference to subsection (4.1), and

(C) where the year is 1997, subparagraph 8308.1(2)(b)(v) were read as:

"(v) the amount, if any, by which 18% of the individual's resident compensation from the employer for the year exceeds \$1,000, and"

does not exceed the lesser of

(D) the money purchase limit for the year, and

(E) 18% of the individual's compensation (as defined in subsection 147.1(1) of the Act) for the year from the employer;

5

(2) Subsection (1) applies after 1995.

3.(1) The heading of Part LXXXIII of the Regulations is replaced by the following:

PENSION ADJUSTMENTS, PAST SERVICE
PENSION ADJUSTMENTS,
PENSION ADJUSTMENT REVERSALS AND
PRESCRIBED AMOUNTS

10

(2) Subsection (1) applies after 1996.

4.(1) Subsection 8300(1) of the Regulations is amended by adding the following in alphabetical order:

15

"member", in relation to a deferred profit sharing plan or a benefit provision of a registered pension plan, means an individual who has a right (either immediate or in the future and either absolute or contingent) to receive benefits under the plan or the provision, as the case may be, other than an individual who has such a right only because of the participation of another individual in the plan or under the provision, as the case may be;

"PA offset" for a calendar year means,

(a) for years before 1997, \$1,000, and

(b) for years after 1996, \$600;

25

"resident compensation" of an individual from an employer for a calendar year means the amount that would be the individual's compensation from the employer for the year if the definition "compensation" in subsection 147.1(1) of the Act were read without reference to paragraphs (b) and (c) of that definition;

30

(2) Subsection 8300(5) of the Regulations is replaced by the following:

(5) For the purposes of this Part (other than the definition "member" in subsection (1)), where an individual has received an interest in an

annuity contract in full or partial satisfaction of the individual's entitlement to benefits under a defined benefit provision of a pension plan, any rights of the individual under the contract are deemed to be rights under the defined benefit provision.

(3) Subsection 8300(7) of the Regulations is replaced by the following: 5

(7) For the purposes of subsections 8301(3) and (8), paragraph 8302(3)(c), subsections 8302(5) and 8304(5) and (5.1), paragraphs 8304.1(10)(c) and (11)(c), subparagraph 8306(4)(a)(ii) and subsection 8308(3), the benefits to which an individual is entitled at any 10 time under a deferred profit sharing plan or pension plan include benefits to which the individual has only a contingent right because a condition for the vesting of the benefits has not been satisfied.

(4) Section 8300 of the Regulations is amended by adding the following after subsection (8): 15

(9) For the purposes of this Part and Part LXXXV, where property held in connection with a particular benefit provision of a pension plan is made available at any time to pay benefits under another benefit provision of the plan, the property is deemed to be transferred at that time from the particular benefit provision to the other benefit provision. 20

(10) For the purposes of this Part and Parts LXXXIV and LXXXV, and subject to subsections (11) and (12), an individual is considered to have terminated from a deferred profit sharing plan or a benefit provision of a registered pension plan when the individual has ceased to be a member in relation to the plan or the provision, as the case 25 may be.

(11) Where

(a) an individual ceases, at a particular time after 1996, to be a member in relation to a defined benefit provision of a registered pension plan, and 30

(b) a pension credit of the individual under a deferred profit sharing plan or a money purchase provision of a registered pension plan (each such plan or provision being referred to in this subsection as an "offset provision") is or has been taken into account, under paragraph 8302(2)(c), in determining a benefit accrual of the 35 individual under the defined benefit provision in respect of the year that includes the particular time or in respect of a preceding year,

for the purposes of this Part and Parts LXXXIV and LXXXV,

(c) if the individual is, at the particular time, a member in relation to an offset provision, the individual is deemed

(i) not to terminate from the defined benefit provision at the particular time, and

(ii) to terminate from the defined benefit provision at the earliest subsequent time when the individual is no longer a member in relation to any of the offset provisions (unless the individual is, at the subsequent time, a member in relation to the defined benefit provision), and

(d) if the conditions in subsection 8304.1(14) or (15) (read without reference to the words "after 1996 and"), as the case may be, are not satisfied with respect to the individual's termination from an offset provision, the conditions in subsection 8304.1(15) are deemed not to be satisfied with respect to the individual's termination from the defined benefit provision.

(12) Where benefits provided with respect to an individual under a particular defined benefit provision of a registered pension plan are supplemental to, or otherwise dependent on, benefits provided with respect to the individual under one or more other defined benefit provisions of registered pension plans (each of the particular provision and the other provisions being referred to in this subsection as a "related provision"), for the purposes of this Part and Parts LXXXIV and LXXXV,

(a) if the individual ceases, at any particular time after 1996, to be a member in relation to a specific related provision and is, at the particular time, a member in relation to another related provision, the individual is deemed

(i) not to terminate from the specific provision at the particular time, and

(ii) to terminate from the specific provision at the earliest subsequent time when the individual is no longer a member in relation to any of the related provisions;

(b) if the conditions in subsection 8304.1(15) (read without reference to the words "after 1996 and") are not satisfied with respect to the individual's termination from a related provision, the conditions in that subsection are deemed not to be satisfied with respect to the individual's termination from each of the other related provisions; and

(c) a specified distribution (as defined in subsection 8304.1(8)) made at any particular time in respect of the individual and a related provision is deemed, for the purpose of subsection 8304.1(5), also to be a specified distribution made at the particular time in respect of the individual and each of the other related provisions, except to the extent that the Minister has waived the application of this paragraph with respect to the distribution. 5

(13) For the purposes of this Part and Part LXXXV, where a benefit is to be provided, or may be provided, to an individual under a defined benefit provision of a registered pension plan as a consequence of an allocation that is to be made, or may be made, to the individual of all or part of an actuarial surplus under the provision, the individual is considered not to have any right to receive the benefit under the provision until the time at which the benefit becomes provided under the provision. 10 15

(5) Subsections (1) to (4) apply after 1989.

5.(1) Paragraph 8301(3)(a) of the Regulations is replaced by the following:

(a) an individual ceased in a calendar year after 1989 and before 1997 to be employed by an employer who participated in a deferred profit sharing plan for the benefit of the individual, 20

(2) Subsection 8301(6) of the Regulations is replaced by the following:

Pension Credit – Defined Benefit Provision

(6) Subject to subsections (7), (8) and (10) and sections 8304 and 8308, for the purposes of this Part and Part LXXXV and subsection 147.1(9) of the Act, an individual's pension credit for a calendar year with respect to an employer under a defined benefit provision of a particular registered pension plan (other than a plan that is, in the year, a specified multi-employer plan) is 25 30

(a) if the year is after 1989, the amount determined by the formula

$$A - B$$

where

A is 9 times the individual's benefit entitlement under the provision with respect to the employer and the year, and 35

B is the amount, if any, by which the PA offset for the year exceeds the total of all amounts each of which is the value of B determined under this paragraph for the purpose of computing the individual's pension credit for the year

(i) with respect to the employer under any other defined benefit provision of a registered pension plan, 5

(ii) with respect to any other employer who at any time in the year does not deal at arm's length with the employer, under a defined benefit provision of a registered pension plan, or

(iii) with respect to any other employer under a defined benefit provision of the particular plan, and 10

(b) if the year is before 1990, nil.

(3) Paragraph 8301(7)(b) of the Regulations is replaced by the following:

(b) the description of B in paragraph (6)(a) shall be read as: 15

"B is the amount determined by the formula

$$(C \times D) - E$$

where

C is the PA offset for the year,

D is

20

(i) where the member rendered services on a full-time basis throughout the year to the employer, one, and

(ii) in any other case, the fraction (not greater than one) that measures the services that, for the purpose of determining the member's lifetime retirement benefits under the provision, the member is treated as having rendered in the year to the employer, expressed as a proportion of the services that would have been rendered by the member in the year to the employer if the member had rendered services to the employer on a full-time basis throughout the year, and 25 30

E is the total of all amounts each of which is the value of B determined under this paragraph for the purpose of computing the individual's pension credit for the year with respect to the employer under any other defined benefit provision of the plan, and";

5

(4) Paragraph 8301(8)(a) of the Regulations is replaced by the following:

(a) an individual ceased in a calendar year after 1989 and before 1997 to be employed by an employer who participated in a registered pension plan for the benefit of the individual,

10

(5) The description of C in subparagraph 8301(10)(e)(ii) of the Regulations is replaced by the following:

C is the amount that would be the individual's pension credit for 1989 with respect to the employer under the defined benefit provision if subsection (6) were read without reference to the words "if the year is after 1989" in paragraph (6)(a) and without reference to paragraph (6)(b).

15

(6) Subsections (1) to (5) apply after 1989.

6.(1) The portion of subsection 8303(2) of the Regulations before paragraph (a) is replaced by the following:

20

Accumulated PSPA for Year

(2) For the purposes of this Part, the accumulated PSPA of an individual for a calendar year with respect to an employer, determined as of any time, is the total of all amounts each of which is the individual's provisional past service pension adjustment (in this Part referred to as "provisional PSPA") with respect to the employer that is associated with

25

(2) The formula in subsection 8303(3) of the Regulations is replaced by the following:

$$A - B - C + D$$

30

(3) Subsection 8303(3) of the Regulations is amended by striking out the word "and" at the end of the description of B, by adding the word "and" at the end of the description of C and by adding the following after the description of C:

D is the total of all amounts each of which is an excess money purchase transfer in relation to the individual and the past service

35

event that is not included in determining any other provisional PSPA of the individual that is associated with the past service event.

(4) Subsections 8303(6) and (7) of the Regulations are replaced by the following:

Qualifying Transfers

5

(6) For the purposes of subsections (3) and 8304(5) and (7) and subject to subsection (6.1), the amount of an individual's qualifying transfers made in connection with a past service event is the total of all amounts each of which is

(a) the portion of an amount transferred to a registered pension plan 10

(i) in accordance with any of subsections 146(16), 147(19) and 147.3(2), (5) and (7) of the Act, or

(ii) from a specified multi-employer plan in accordance with subsection 147.3(3) of the Act,

that is transferred to fund benefits provided to the individual as a 15 consequence of the past service event; or

(b) the amount of any property held in connection with a benefit provision of a registered pension plan that is made available to fund benefits provided to the individual under another benefit provision of the plan as a consequence of the past service event, where the 20 transaction by which the property is made so available is such that, if the benefit provisions were in separate registered pension plans, the transaction would constitute a transfer of property from one plan to the other in accordance with any of subsections 147.3(2), (5) and (7) of the Act. 25

Exclusion for Pre-1990 Benefits

(6.1) The amount of an individual's qualifying transfers made in connection with a past service event shall be determined under subsection (6) without regard to the portion, if any, of amounts transferred or property made available, as the case may be, that can 30 reasonably be considered to have been transferred or made available to fund benefits provided in respect of periods before 1990.

Deemed Payment

(7) Where

(a) an individual has given an irrevocable direction that

35

(i) an amount be paid to a registered pension plan, or

(ii) property held in connection with a benefit provision of a registered pension plan be made available to fund benefits provided to the individual under another benefit provision of the plan,

5

in the event that the Minister issues a certification for the purposes of subsection 147.1(10) of the Act with respect to the individual and to benefits provided under a defined benefit provision of the plan as a consequence of a past service event, and

(b) the amount is to be paid or the property is to be made available, 10 as the case may be,

(i) where subparagraph (ii) does not apply, on or before the day that is 90 days after the day on which the certification is received by the administrator of the plan, and

(ii) where the plan was deemed by paragraph 147.1(3)(a) of the 15 Act to be a registered pension plan at the time the direction was given, on or before the day that is 90 days after the later of

(A) the day on which the certification is received by the administrator of the plan, and

(B) the day on which the administrator of the plan receives 20 written notice from the Minister of the registration of the plan for the purposes of the Act,

the amount or property, as the case may be, is deemed, for the purpose of subsection (6), to have been paid or made available, as the case may be, at the time the direction was given.

25

Excess Money Purchase Transfer

(7.1) Where lifetime retirement benefits have, as a consequence of a past service event, become provided to an individual under a defined benefit provision of a registered pension plan (other than a specified multi-employer plan) in respect of a period (in this subsection referred 30 to as the “past service period”) that

(a) was previously pensionable service of the individual under a particular defined benefit provision of a registered pension plan (other than a specified multi-employer plan),

(b) ceased to be pensionable service of the individual under the 35 particular provision as a result of the payment of a single amount, all

or part of which was transferred on behalf of the individual from the particular provision to a registered retirement savings plan, a registered retirement income fund, a money purchase provision of a registered pension plan or a defined benefit provision of a registered pension plan that was, at the time of the transfer, a specified multi-employer plan, 5

(c) has not, at any time after the payment of the single amount and before the past service event, been pensionable service of the individual under any defined benefit provision of a registered pension plan (other than a specified multi-employer plan), and 10

(d) is not, for the purpose of subsection 8304(5), a qualifying past service period in relation to the individual and the past service event,

the amount determined by the formula

$$A - B$$

is, for the purpose of the description of D in subsection (3), an excess money purchase transfer in relation to the individual and the past service event, where 15

A is the portion of the amount transferred, as described in paragraph (b), that can reasonably be considered to be attributable to benefits in respect of the portion of the past service period that is after 1989, and 20

B is the total of all amounts each of which is the portion of a pension credit, or the grossed-up amount of a provisional PSPA, of the individual that can reasonably be considered to be attributable to benefits previously provided under the particular provision in respect of the past service period. 25

(5) Subsection (1) applies after 1995.

(6) Subsections (2) and (3) and subsection 8303(7.1) of the Regulations, as enacted by subsection (4), apply with respect to past service events that occur after 1997. 30

(7) Subsections 8303(6) and (7) of the Regulations, as enacted by subsection (4), apply

(a) to the determination of an individual's qualifying transfers that occur on or after ANNOUNCEMENT DATE, and

(b) where approved by the Minister of National Revenue, to the determination of an individual's qualifying transfers that occurred before ANNOUNCEMENT DATE.

(8) Subsection 8303(6.1) of the Regulations, as enacted by subsection (4), applies to the determination of an individual's qualifying transfers that occur on or after ANNOUNCEMENT DATE. 5

7.(1) Subsection 8304(4) of the Regulations is amended by

(a) adding the word "or" at the end of paragraph (a);

(b) striking out "(in this subsection referred to as the "past service period")" in paragraph (b); 10

(c) striking out the word "or" at the end of paragraph (b); and

(d) repealing paragraph (c).

(2) Subsections 8304(5) and (6) of the Regulations are replaced by the following: 15

Modified PSPA Calculation

(5) Where

(a) lifetime retirement benefits have, as a consequence of a past service event, become provided to an individual under a defined benefit provision of a registered pension plan in respect of one or more qualifying past service periods in relation to the individual and the past service event, and 20

(b) the benefits are considered to be attributable to employment of the individual with a single employer,

the provisional PSPA of the individual with respect to the employer that is associated with the past service event is the amount determined by the formula 25

$$A + B + C - D$$

where

A is the provisional PSPA that would be determined if 30

(a) this subsection did not apply,

(b) all former benefits in relation to the individual and the past service event had ceased to be provided at the time the past service event occurred,

(c) all former benefits in relation to the individual and the past service event were considered to be attributable to employment of the individual with the employer, and 5

(d) the value of C in subsection 8303(3) were nil,

B is the total of all amounts each of which is a non-vested PA amount in respect of the individual and the past service event,

C is the total of all amounts each of which is a money purchase transfer in relation to the individual and the past service event, and 10

D is the amount of the individual's qualifying transfers made in connection with the past service event.

Definitions for Subsection (5)

(5.1) For the purpose of subsection (5), where 15

(a) lifetime retirement benefits (in this subsection referred to as "past service benefits") have, as a consequence of a past service event occurring at a particular time, become provided to an individual under a defined benefit provision of a registered pension plan in respect of a period that 20

(i) immediately before the particular time, was not pensionable service of the individual under the provision, and

(ii) is, or was, pensionable service of the individual under another defined benefit provision (in this subsection referred to as the "former provision") of a registered pension plan, 25

(b) either

(i) the individual has not, at any time after 1996 and before the particular time, been a member in relation to the former provision,

(ii) the individual ceased, at the particular time, to be a member in relation to the former provision, or 30

(iii) the past service event is a certifiable past service event and the individual is to cease being a member in relation to the former provision no later than 90 days after the day on which a

certification of the Minister is issued for the purposes of subsection 147.1(10) of the Act in respect of the past service benefits, and

(c) lifetime retirement benefits to which the individual is or was entitled under the former provision in respect of the period have not been taken into account under subsection (5) as former benefits in determining a provisional PSPA of the individual that is associated with any other past service event, 5

the following rules apply:

(d) the period is a qualifying past service period in relation to the individual and the past service event, 10

(e) lifetime retirement benefits to which the individual is or was entitled under the former provision in respect of the period are former benefits in relation to the individual and the past service event, 15

(f) where subsection 8301(8) has applied in respect of the determination of a pension credit of the individual under the former provision with respect to an employer for a year that includes any part of the period, the amount determined by the formula

$$A - B \quad 20$$

is a non-vested PA amount in respect of the individual and the past service event, where

A is the amount that would have been the individual's pension credit under the former provision for the year with respect to the employer if subsection 8301(8) had not applied, and 25

B is the individual's pension credit under the former provision for the year with respect to the employer, and

(g) the amount determined by the formula

$$A - B$$

is a money purchase transfer in relation to the individual and the past service event, where 30

A is the total of all amounts each of which is

(i) an amount that was transferred, at or before the particular time, on behalf of the individual from the former provision to

a registered retirement savings plan, a registered retirement income fund, a money purchase provision of a registered pension plan or a defined benefit provision of a registered pension plan that was, at the time of the transfer, a specified multi-employer plan, or

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(ii) an amount that is to be paid or otherwise made available under the former provision with respect to the individual after the particular time, other than an amount that is to be transferred to fund the past service benefits or paid directly to the individual,

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to the extent that the amount can reasonably be considered to be attributable to benefits in respect of the portion of the period that is after 1989, and

B is the total of all amounts each of which is, in respect of an employer with respect to which a provisional PSPA of the individual that is associated with the past service event is determined under subsection (5), the amount, if any, by which

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(i) the portion of the value determined for B in subsection 8303(3), for the purpose of determining the individual's provisional PSPA with respect to the employer, that can reasonably be considered to be attributable to benefits provided in respect of the period

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exceeds

(ii) the portion of the value determined for A in subsection 8303(3), for the purpose of determining the individual's provisional PSPA with respect to the employer, that can reasonably be considered to be attributable to benefits provided in respect of the period.

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Reinstatement of Pre-1997 Benefits

(6) Where lifetime retirement benefits have, as a consequence of a past service event, become provided to an individual under a defined benefit provision of a registered pension plan in respect of a period that

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(a) was previously pensionable service of the individual under the provision,

(b) ceased to be pensionable service of the individual under the provision as a consequence of the individual ceasing before 1997 to be a member in relation to the provision, and

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(c) has not, at any time after 1996 and before the past service event, been pensionable service of the individual under a defined benefit provision of a registered pension plan,

each provisional PSPA of the individual that is associated with the past service event shall be determined as if all benefits provided to the individual under the provision before 1997 in respect of the period had been provided to the individual under another defined benefit provision of a registered pension plan in relation to which the individual has not, at any time after 1996, been a member.

(3) Paragraph 8304(7)(b) of the Regulations is replaced by the following:

(b) subsection (5) would, but for paragraph (5)(b), apply in respect of the determination of each provisional PSPA of the individual that is associated with the past service event,

(4) Subsection 8304(8) of the Regulations is repealed.

(5) Subsection (1) applies with respect to past service events that occur after 1996.

(6) Subsections (2) to (4) apply to the determination of provisional PSPAs that are associated with past service events that occur after 1997.

8.(1) Part LXXXIII of the Regulations is amended by adding the following after section 8304:

PENSION ADJUSTMENT REVERSAL

Total Pension Adjustment Reversal

8304.1 (1) For the purpose of subsection 248(1) of the Act, an individual's "total pension adjustment reversal" for a calendar year means the total of all amounts each of which is the pension adjustment reversal (in this Part and Part LXXXIV referred to as "PAR") determined in connection with the individual's termination in the year from a deferred profit sharing plan or from a benefit provision of a registered pension plan.

Termination in 1997

(2) For the purpose of subsection (1), where an individual terminates in 1997 from a deferred profit sharing plan or from a benefit provision of a registered pension plan, the termination is deemed to have occurred in 1998.

PAR - Deferred Profit Sharing Plan

(3) For the purposes of this Part and Part LXXXIV and subject to subsection (13), an individual's PAR determined in connection with the individual's termination from a deferred profit sharing plan is,

(a) where the conditions in subsection (14) are satisfied with respect to the termination, the total of all amounts each of which is an amount

(i) included in determining a pension credit of the individual under the plan, and

(ii) to which the individual has ceased, at or before the time of the termination, to have any rights,

but does not include any amount to which a spouse or former spouse of the individual has acquired rights as a consequence of a breakdown of their marriage; and

(b) in any other case, nil. 15

PAR - Money Purchase Provision

(4) For the purposes of this Part and Part LXXXIV and subject to subsection (13), an individual's PAR determined in connection with the individual's termination from a money purchase provision of a registered pension plan is, 20

(a) where the conditions in subsection (15) are satisfied with respect to the termination, the total of all amounts each of which is an amount

(i) included in determining a pension credit of the individual under the provision, and 25

(ii) to which the individual has ceased, at or before the time of the termination, to have any rights,

but does not include any amount to which a spouse or former spouse of the individual has acquired rights as a consequence of a breakdown of their marriage; and 30

(b) in any other case, nil.

PAR - Defined Benefit Provision

(5) For the purposes of this Part and Part LXXXIV and subject to subsections (6) and (13), an individual's PAR determined in connection with the individual's termination from a defined benefit provision of a registered pension plan is,

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(a) where the conditions in subsection (15) are satisfied with respect to the termination, the amount determined by the formula

$$A + B - C - D - E$$

where

A is the total of all amounts each of which is, in respect of a particular year that is the year in which the termination occurs or that is a preceding year, the lesser of

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(i) the total of all amounts each of which is the pension credit of the individual under the provision for the particular year with respect to an employer, and

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(ii) the RRSP dollar limit for the year following the particular year,

B is the total of all amounts each of which is the portion of the grossed-up amount of a provisional PSPA (other than a provisional PSPA determined in accordance with subsection 8303(8)) of the individual that is associated with a past service event occurring before the time of the termination that can reasonably be considered to be attributable to benefits provided under the provision,

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C is the total of all amounts each of which is a specified distribution made in respect of the individual and the provision at or before the time of the termination,

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D is the total of all amounts each of which is a PA transfer amount in relation to the individual's termination from the provision, and

E is the total of all amounts each of which is an excess money purchase offset in relation to the individual and the termination; and

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(b) in any other case, nil.

Defined Benefit Pension Credits

(6) For the purpose of subparagraph (i) of the description of A in paragraph (5)(a), in determining an individual's PAR in connection with the individual's termination from a defined benefit provision of a registered pension plan,

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(a) the individual's pension credits under the provision for the year in which the termination occurs shall be determined without regard to benefits provided after the time of the termination; and

(b) the individual's pension credits under the provision for each year in which the plan was a specified multi-employer plan are deemed to be nil.

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Grossed-Up PSPA Amount

(7) For the purposes of the descriptions of B in subsection 8303(7.1) and paragraph (5)(a), the grossed-up amount of an individual's provisional PSPA with respect to an employer that is associated with a past service event is the amount that would be the provisional PSPA if

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(a) the values of C and D in subsections 8303(3) and 8304(5) were nil; and

(b) the words "at the time the past service event occurred" in paragraph (b) of the description of A in subsection 8304(5) were read as "immediately before the time the past service event occurred".

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Specified Distribution

(8) For the purpose of the description of C in paragraph (5)(a), an amount paid under a defined benefit provision of a registered pension plan with respect to an individual is a specified distribution made in respect of the individual and the provision at the time it is paid, except to the extent that

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(a) it can reasonably be considered to be a payment of benefits in respect of any period before 1990;

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(b) it is transferred to another registered pension plan (other than a plan that is, at the time of the transfer, a specified multi-employer plan) in accordance with subsection 147.3(3) of the Act;

(c) it is transferred to another defined benefit provision of the plan where the transfer would, if the provision and the other provision

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were in separate registered pension plans, constitute a transfer in accordance with subsection 147.3(3) of the Act;

(d) it is a payment in respect of an actuarial surplus;

(e) it is

(i) a return of contributions made by the individual under the provision, where the contributions are returned pursuant to an amendment to the plan that also reduces the future contributions that would otherwise be required to be made under the provision by members of the plan and that does not reduce benefits provided under the provision, or

(ii) a payment of interest in respect of contributions that are returned as described in subparagraph (i);

(f) it can reasonably be considered to be a payment of benefits provided in respect of a period throughout which the plan was a specified multi-employer plan; or

(g) it can reasonably be considered to be a payment of benefits provided in respect of a period throughout which the individual was employed outside Canada, where the benefits became provided as a consequence of a past service event in respect of which the Minister had consented to the application of subsection 8303(10) for the purpose of determining the individual's provisional PSPAs.

Property Made Available

(9) Where property held in connection with a particular defined benefit provision of a pension plan is made available at any time to provide benefits with respect to an individual under another benefit provision of a pension plan, subsection (8) applies as if the amount of the property had been paid under the particular provision at that time with respect to the individual.

PA Transfer Amount

(10) Where

(a) an individual has terminated, at a particular time after 1996, from a defined benefit provision (in this subsection referred to as the "former provision") of a registered pension plan,

(b) lifetime retirement benefits (in this subsection referred to as the "past service benefits") have, as a consequence of a past service event occurring at or before the particular time, become provided to

the individual under another defined benefit provision of a registered pension plan in respect of a period that is or was pensionable service of the individual under the former provision, and

(c) lifetime retirement benefits to which the individual is or was entitled under the former provision in respect of the period have, under subsection 8304(5), been taken into account as former benefits in determining a provisional PSPA of the individual that is associated with the past service event, 5

for the purposes of subsection 8406(4) and the description of D in paragraph (5)(a), the lesser of 10

(d) the portion of the value determined for A in subsection 8303(3), for the purpose of determining the provisional PSPA, that can reasonably be considered to be attributable to the past service benefits, and

(e) the portion of the value determined for B in subsection 8303(3), for the purpose of determining the provisional PSPA, that can reasonably be considered to be attributable to the former benefits 15

is a PA transfer amount in relation to the individual's termination from the former provision.

Special 1997 PA Transfer Amount 20

(11) Where

(a) an individual has terminated, at a particular time in 1997, from a particular defined benefit provision of a registered pension plan,

(b) lifetime retirement benefits (in this subsection referred to as the "past service benefits") have, as a consequence of a past service event that occurred after the particular time and before 1998, become provided to the individual under the particular provision, or under another defined benefit provision of a registered pension plan, in respect of a period that was previously pensionable service of the individual under the particular provision, and 25 30

(c) lifetime retirement benefits to which the individual was previously entitled under the particular provision in respect of the period have, under subsection 8304(5), been taken into account as former benefits in determining a provisional PSPA of the individual that is associated with the past service event, 35

for the purposes of subsection 8406(4) and the description of D in paragraph (5)(a), the lesser of

(d) the portion of the value determined for A in subsection 8303(3), for the purpose of determining the provisional PSPA, that can reasonably be considered to be attributable to the past service benefits, and

(e) the portion of the value determined for B in subsection 8303(3), for the purpose of determining the provisional PSPA, that can reasonably be considered to be attributable to the former benefits

is a PA transfer amount in relation to the individual's termination from the particular provision at the particular time.

Excess Money Purchase Offset

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(12) Where

(a) an individual has terminated after 1996 from a defined benefit provision of a registered pension plan, and

(b) a pension credit of the individual under a deferred profit sharing plan or a money purchase provision of a registered pension plan (in this subsection referred to as the "offset provision") is or has been taken into account, under paragraph 8302(2)(c), in determining a benefit accrual of the individual under the defined benefit provision in respect of the year in which the termination occurs or in respect of a preceding year,

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the amount determined by the formula

$$A - B$$

is, for the purpose of the description of E in paragraph (5)(a), an excess money purchase offset in relation to the individual and the termination, where

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A is the total of all amounts each of which is an amount paid with respect to the individual at or before the time of the termination out of or under the offset provision, other than the portion of the amount paid that can reasonably be considered to derive from amounts contributed by or with respect to the individual, or otherwise allocated to the individual, before 1990, or from earnings reasonably attributable to such amounts, and

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B is the total of all amounts each of which is a pension credit of the individual under the offset provision for the year in which the termination occurs or for a preceding year.

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Subsequent Membership

(13) Where an individual has ceased at a particular time to be a member in relation to a deferred profit sharing plan or a benefit provision of a registered pension plan and subsequently becomes a member in relation to the plan or the provision, as the case may be, the following rules apply in determining the individual's PAR in connection with any subsequent termination from the plan or the provision, as the case may be:

(a) in the case of a deferred profit sharing plan or money purchase provision, any amounts included in a pension credit of the individual under the plan or provision because of an allocation to the individual before the particular time shall be disregarded; and

(b) in the case of a defined benefit provision,

(i) the value of A in paragraph (5)(a) shall be determined without regard to any pension credit, or portion thereof, that is attributable to benefits provided under the provision before the particular time,

(ii) the value of B in paragraph (5)(a) shall be determined without regard to any provisional PSPA that is associated with a past service event that occurred before the particular time, and

(iii) the value of C in paragraph (5)(a) shall be determined without regard to any specified distribution (as defined in subsection (8)) made at or before the particular time.

Termination Conditions - Deferred Profit Sharing Plan

(14) For the purpose of paragraph (3)(a), the conditions with respect to an individual's termination from a deferred profit sharing plan are

(a) the termination occurs after 1996 and otherwise than because of death; and

(b) no payments described in subparagraph 147(2)(k)(v) or (vi) of the Act have been made out of or under the plan with respect to the individual.

Termination Conditions - Registered Pension Plan

(15) For the purposes of paragraphs (4)(a) and (5)(a), the conditions with respect to an individual's termination from a benefit provision of a registered pension plan are

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(a) the termination occurs after 1996 and otherwise than because of death;

(b) no retirement benefits have been paid under the provision with respect to the individual (other than retirement benefits paid with respect to the individual's spouse or former spouse as a consequence of a breakdown of their marriage); and

(c) the individual has not acquired an interest in an annuity contract in full or partial satisfaction of the individual's entitlement to benefits under the provision, except where the interest was acquired as a consequence of a transfer of property from the provision to a registered retirement savings plan or a registered retirement income fund under which the individual is the annuitant.

Marriage Breakdown

(16) Where,

(a) before a member terminates from a defined benefit provision of a registered pension plan, there has been a breakdown of the member's marriage, and

(b) as a consequence of the breakdown,

(i) the member has ceased to have rights to all or a portion of the benefits provided under the provision with respect to the member, and

(ii) the member's spouse or former spouse (in this subsection referred to as the "spouse") has acquired rights under the provision in respect of those benefits,

for the purpose of subsection (8),

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(c) any amount paid under the provision with respect to the rights acquired by the spouse (other than a single amount paid under the provision at or before the time of the member's termination in full satisfaction of the rights acquired by the spouse) is deemed not to have been paid with respect to the member, and

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(d) unless a single amount has been paid under the provision at or before the time of the member's termination in full satisfaction of the rights acquired by the spouse, a single amount equal to the present value (at the time the member terminates from the provision) of the benefits to which the member has ceased to have rights as a consequence of the breakdown is deemed to have been paid to the member at that time under the provision in full satisfaction of those benefits. 5

(2) Subsection (1) applies after 1996.

9.(1) The portion of subsection 8307(5) of the Regulations before paragraph (a) is replaced by the following: 10

PSPA Withdrawals

(5) For the purposes of the description of C in paragraph (2)(b) and the description of G in the definition "net past service pension adjustment" in subsection 146(1) of the Act, the amount of an individual's PSPA withdrawals for a calendar year, determined as of a particular time, is 15

(2) Subsection (1) applies after 1995.

10.(1) The portion of subsection 8308.1(2) of the Regulations before paragraph (a) is replaced by the following: 20

Pension Credit

(2) Subject to subsections (3) to (4.1), the pension credit of an individual for a calendar year with respect to an employer under a foreign plan is

(2) The portion of paragraph 8308.1(2)(b) of the Regulations after subparagraph (iv) is replaced by the following: 25

the lesser of

(v) the amount, if any, by which 18% of the individual's resident compensation from the employer for the year exceeds the PA offset for the year, and 30

(vi) the amount by which the money purchase limit for the year exceeds the PA offset for the year.

(3) Section 8308.1 of the Regulations is amended by adding the following after subsection (4):

Pension Credits – 1996 to 2003

(4.1) For the purpose of determining the pension credit of an individual for a calendar year after 1995 and before 2004 with respect to an employer under a foreign plan, subparagraph (2)(b)(vi) shall be read as:

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"(vi) the money purchase limit for the year."

(4) Subsections (1) to (3) apply after 1991.

11.(1) Section 8308.2 of the Regulations is replaced by the following:

Prescribed Amount for Member of Foreign Plan

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Prescribed Amount

8308.2(1) Where

(a) throughout a period in a particular calendar year after 1992 an individual resident in Canada rendered services to an employer, other than services that were primarily services rendered in Canada or 15 services rendered in connection with a business carried on by the employer in Canada, or a combination of those services,

(b) the individual became entitled in the particular year, either absolutely or contingently, to benefits under a pension plan that is a foreign plan (as defined in subsection 8308.1(1)) in respect of the 20 services, and

(c) the individual continued to be entitled at the end of the particular year, either absolutely or contingently, to all or part of the benefits,

subject to subsection (2), there is prescribed in respect of the individual for the year following the particular year, for the purposes of the 25 descriptions of B in the definitions "RRSP deduction limit" and "unused RRSP deduction room" in subsection 146(1) of the Act and the description of B in paragraph 204.2(1.1)(b) of the Act, the lesser of

(d) the amount by which the money purchase limit for the particular year exceeds the PA offset for the particular year, and 30

(e) 10% of the portion of the individual's resident compensation from the employer for the particular year that is attributable to services rendered by the individual to the employer in periods throughout which the individual rendered services described in paragraph (a). 35

Prescribed Amounts – 1997 to 2004

(2) For the purpose of determining the amount prescribed under subsection (1) in respect of an individual for a calendar year after 1996 and before 2005, paragraph (d) of that subsection shall be read as:

"(d) the money purchase limit for the particular year, and".

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(2) Subsection (1) applies after 1991.

12.(1) Paragraph 8308.3(1)(a) of the Regulations is replaced by the following:

(a) a plan or arrangement referred to in any of paragraphs (a) to (k), (m) and (n) of the definition "retirement compensation arrangement" in subsection 248(1) of the Act;

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(2) Paragraph 8308.3(1)(b) of the Regulations is repealed.

(3) Paragraph 8308.3(1)(c) of the Regulations is replaced by the following:

(c) a plan or arrangement that does not provide in any circumstances for payments to be made to or for the benefit of the individual after the later of the last day of the calendar year in which the individual attains 69 years of age and the day that is 5 years after the day of termination of the individual's employment with the employer;

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(4) The portion of subsection 8308.3(2) of the Regulations before paragraph (a) is replaced by the following:

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Pension Credit

(2) Subject to subsections (3) and (3.1), the pension credit of an individual for a calendar year with respect to an employer under a specified retirement arrangement is

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(5) The portion of subparagraph 8308.3(2)(b)(v) of the Regulations before the description of B is replaced by the following:

(v) the amount determined by the formula

$$0.85A - B$$

is greater than nil where

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A is the lesser of

(A) the amount, if any, by which 18% of the individual's resident compensation from the employer for the year exceeds the PA offset for the year, and

(B) the amount by which the money purchase limit for the year exceeds the PA offset for the year, and

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(6) Section 8308.3 of the Regulations is amended by adding the following after subsection (3):

Pension Credits – 1996 to 2003

(3.1) For the purpose of determining the pension credit of an individual for a calendar year after 1995 and before 2004 with respect to an employer under a specified retirement arrangement, the portion of paragraph (2)(b) after subparagraph (iv) shall be read as:

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"(v) the amount determined by the formula

$$0.85A - B$$

is greater than nil where

15

A is the lesser of

(A) the amount, if any, by which 18% of the individual's resident compensation from the employer for the year exceeds the PA offset for the year, and

(B) the amount by which \$15,500 exceeds the PA offset for the year, and

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B is the amount that would be the pension adjustment of the individual for the year with respect to the employer if subsection 8301(1) were read without reference to paragraph (c),

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the amount that would be determined by the formula in subparagraph (v) if

(vi) the reference to "0.85A" in the formula were read as a reference to "A", and

(vii) clause (B) of the description of A in that subparagraph were read as:

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"(B) the money purchase limit for the year, and".

(7) Subsections (1), (2) and (4) to (6) apply after 1991:

(8) Subsection (3) applies after 1997, except that paragraph 8308.3(1)(c) of the Regulations, as enacted by subsection (3), does not apply in respect of an individual who attained 69 years of age before 1998.

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13.(1) Subsection 8308.4(2) of the Regulations is replaced by the following:

Prescribed Amount

(2) Where

(a) in a particular calendar year after 1992 an individual renders services in respect of which an amount that is included in computing the income from a business of any person was payable directly or indirectly by the government of Canada or of a province, and 10

(b) at the end of the particular year, the individual is entitled, either absolutely or contingently, to benefits under a government-sponsored retirement arrangement that provides benefits in connection with such services, 15

there is prescribed in respect of the individual for the year following the particular year, for the purposes of the descriptions of B in the definitions "RRSP deduction limit" and "unused RRSP deduction room" in subsection 146(1) of the Act and the description of B in paragraph 204.2(1.1)(b) of the Act, 20

(c) where the particular year is before 1996, the amount by which the RRSP dollar limit for that following year exceeds \$1,000, and

(d) in any other case, the RRSP dollar limit for that following year. 25

(2) Subsection (1) applies after 1992.

14.(1) Section 8309 of the Regulations is replaced by the following:

Prescribed Amount for Lieutenant Governors and Judges

8309.(1) Subject to subsection (3), where an individual is, at any time in a particular calendar year after 1989, a lieutenant governor of a province (other than a lieutenant governor who is not a contributor as defined in section 2 of the *Lieutenant Governors Superannuation Act*), there is prescribed in respect of the individual for the year following the particular year, for the purposes of the description of B in the definitions 30 35

"RRSP deduction limit" and "unused RRSP deduction room" in subsection 146(1) of the Act and the description of B in paragraph 204.2(1.1)(b) of the Act, the lesser of

(a) the amount, if any, by which 18% of the salary received by the individual for the particular year as a lieutenant governor exceeds the PA offset for the particular year, and 5

(b) the amount by which the money purchase limit for the particular year exceeds the PA offset for the particular year.

(2) Subject to subsection (3), where an individual is, at any time in a particular calendar year after 1990, a judge in receipt of a salary under the *Judges Act*, there is prescribed in respect of the individual for the year following the particular year, for the purposes of the description of B in the definitions "RRSP deduction limit" and "unused RRSP deduction room" in subsection 146(1) of the Act and the description of B in paragraph 204.2(1.1)(b) of the Act, the lesser of 15

(a) the amount, if any, by which 18% of the salary (other than salary that was not received under the *Judges Act*) received by the individual for the particular year as a judge exceeds the PA offset for the particular year, and

(b) the amount by which the money purchase limit for the particular year exceeds the PA offset for the particular year. 20

(3) For the purpose of determining the amount prescribed under subsection (1) or (2) in respect of an individual for a calendar year after 1996 and before 2005, paragraphs (1)(b) and (2)(b) shall be read as:

"(b) the money purchase limit for the particular year." 25

(2) Subsection (1) applies after 1989.

15.(1) Section 8311 of the Regulations is replaced by the following:

Rounding of Amounts

8311. Where a pension credit, provisional PSPA or PAR of an individual is not a multiple of one dollar, it shall be rounded to the nearest multiple of one dollar or, if it is equidistant from 2 such consecutive multiples, to the higher thereof. 30

(2) Subsection (1) applies after 1996.

16.(1) Part LXXXIV of the Regulations is amended by adding the following after section 8402:

PAR

Deferred Profit Sharing Plan

8402.01 (1) Where the PAR determined in connection with an individual's termination from a deferred profit sharing plan is greater than nil, each trustee under the plan shall file with the Minister an information return in prescribed form reporting the PAR on or before the day that is 60 days after the last day of the quarter (as defined in section 4300) of the calendar year in which the termination occurs and, for this purpose, an information return filed by a trustee under a deferred profit sharing plan is deemed to have been filed by each trustee under the plan.

Benefit Provision of a Registered Pension Plan

(2) Subject to subsection (3), where the PAR determined in connection with an individual's termination from a benefit provision of a registered pension plan is greater than nil, the administrator of the plan shall file with the Minister an information return in prescribed form reporting the PAR on or before the day that is 60 days after the last day of the quarter (as defined in section 4300) of the calendar year in which the termination occurs.

Extended Deadline – PA Transfer Amount

(3) Where, in determining an individual's PAR in connection with the individual's termination from a defined benefit provision of a registered pension plan, it is reasonable for the administrator of the plan to conclude that the value of D in paragraph 8304.1(5)(a) in respect of the termination may be greater than nil, the administrator shall file with the Minister an information return in prescribed form reporting the PAR, if it is greater than nil, on or before the later of

(a) the day on or before which it would otherwise be required to be filed, and

(b) the day that is 60 days after the earliest day on which the administrator has all the information required to determine that value.

(2) Subsection (1) applies after 1996, except that any return otherwise required by section 8402.01 of the Regulations, as enacted by subsection (1), to be filed before the particular day that is the later of

(a) December 31, 1998, and

(b) the day that is 60 days after the day on which subsection (1) is published in the *Canada Gazette*,

is required to be filed on or before the particular day.

17.(1) Subsections 8404(1) and (2) of the Regulations are replaced by the following: 5

Reporting to Individuals

8404.(1) Every person who is required by section 8401 or 8402.1 to file an information return with the Minister shall, on or before the day on or before which the return is required to be filed with the Minister, 10 send to each individual to whom the return relates, 2 copies of the portion of the return that relates to the individual.

(2) Every person who is required by section 8402, 8402.01 or 8403 to file an information return with the Minister shall, on or before the day on or before which the return is required to be filed with the 15 Minister, send to each individual to whom the return relates, one copy of the portion of the return that relates to the individual.

(2) Subsection 8404(1) of the Regulations, as enacted by subsection (1), applies after 1992.

(3) Subsection 8404(2) of the Regulations, as enacted by 20 subsection (1), applies after 1996.

18.(1) Section 8406 of the Regulations is amended by adding the following after subsection (3):

(4) Where benefits provided to an individual under a registered pension plan (in this subsection referred to as the "importing plan") as 25 a consequence of a past service event result in a PA transfer amount in relation to the individual's termination from a defined benefit provision of another registered pension plan (in this subsection referred to as the "exporting plan"),

(a) the administrator of the importing plan shall, in writing on or 30 before the day that is 30 days after the day on which the past service event occurred, notify the administrator of the exporting plan of the occurrence of the past service event and of its relevance in determining the individual's PAR in connection with the individual's termination from the defined benefit provision; and 35

(b) the administrator of the importing plan shall notify the administrator of the exporting plan of the PA transfer amount in writing on or before the day that is 60 days after

(i) in the case of a certifiable past service event, the day on which the Minister issues a certification for the purposes of subsection 147.1(10) of the Act in respect of the past service event and the individual, and

(ii) in any other case, the day on which the past service event occurred.

(2) Subsection (1) applies after 1996, except that

(a) any notification otherwise required by paragraph 8406(4)(a) of the Regulations, as enacted by subsection (1), to be provided before September 30, 1998 is required to be provided on or before that date, and

(b) any notification otherwise required by paragraph 8406(4)(b) of the Regulations, as enacted by subsection (1), to be provided before the particular day that is 60 days after the day on which subsection (1) is published in the *Canada Gazette* is required to be provided on or before the particular day.

19.(1) The definition "defined benefit limit" in subsection 8500(1) of the Regulations is replaced by the following:

"defined benefit limit" for a calendar year means the greater of

(a) \$1,722.22, and

(b) 1/9 of the money purchase limit for the year;

(2) Subsection (1) applies after 1995, except that paragraph (b) of the definition "defined benefit limit" in subsection 8500(1) of the Regulations, as enacted by subsection (1), applies

(a) before March 6, 1996 as though the money purchase limit for each year after 1995 were the amount that it would be if the definition "money purchase limit" in subsection 147.1(1) of the *Income Tax Act* applied as it read on December 31, 1995; and

(b) after March 5, 1996 and before 1997 as though the money purchase limit for each year after 1995 were the amount that it would be if the definition "money purchase limit" in subsection 147.1(1) of the Act applied as it read on January 1, 1997.

20.(1) Section 8501 of the Regulations is amended by adding the following after subsection (6):

Benefits Provided With Surplus on Plan Wind-Up

(7) Where

(a) a single amount is paid in full or partial satisfaction of an individual's entitlement to retirement benefits (in this subsection referred to as the "commuted benefits") under a defined benefit provision of a registered pension plan, 5

(b) other benefits are subsequently provided to the individual under the provision as a consequence of an allocation, on full or partial wind-up of the plan, of an actuarial surplus under the provision, 10

(c) the other benefits include benefits (in this subsection referred to as "ancillary benefits") that, but for this subsection, would not be permissible under this Part, 15

(d) if the individual had previously terminated from the provision and the conditions in subsection 8304.1(15) were satisfied with respect to the termination, it is reasonable to consider that all of the ancillary benefits are in respect of periods before 1990, and

(e) the Minister has approved the application of this subsection in respect of the ancillary benefits, 20

for the purpose of determining whether the ancillary benefits are permissible under this Part, the individual is considered to have an entitlement under the provision to the commuted benefits.

(2) Subsection (1) applies to benefits provided after 1996. 25

21.(1) Clause 8502(e)(i)(A) of the Regulations is replaced by the following:

(A) the end of the calendar year in which the member attains 69 years of age, or

(2) Subsection (1) applies after 1996, except that 30

(a) subject to paragraph (b), clause 8502(e)(i)(A) of the Regulations, as enacted by subsection (1), applies in respect of benefits provided to an individual who attained 70 years of age before 1997 or 69 years of age in 1996 as though the reference in that clause to "69 years of age" were a reference to "71 years of age" and "70 years of age" respectively; and 35

(b) where retirement benefits under a pension plan are provided to an individual by means of an annuity contract issued before March 6, 1996 and, under the terms and conditions of the contract as they read immediately before that day,

(i) the day on which annuity payments are to begin under the contract is fixed and determined and is after the year in which the individual attains 5

(A) 69 years of age, where the individual had not attained that age before 1997, or

(B) 70 years of age, where the individual attained 69 years of age in 1996, and 10

(ii) the amount and timing of each annuity payment are fixed and determined,

clause 8502(e)(i)(A) of the Regulations, as enacted by subsection (1), applies in respect of the benefits as though the reference in that clause to "69 years of age" were a reference to "71 years of age". 15

22.(1) Clause 8503(2)(f)(iii)(B) of the Regulations is replaced by the following:

(B) the end of the calendar year in which the beneficiary attains 69 years of age 20

(2) Subsection (1) applies after 1996, except that

(a) subject to paragraph (b), clause 8503(2)(f)(iii)(B) of the Regulations, as enacted by subsection (1), applies in respect of benefits provided to an individual who attained 70 years of age before 1997 or 69 years of age in 1996 as though the reference in that clause to "69 years of age" were a reference to "71 years of age" and "70 years of age" respectively; and 25

(b) where retirement benefits under a pension plan are provided to an individual by means of an annuity contract issued before March 6, 1996 and, under the terms and conditions of the contract as they read immediately before that day, 30

(i) the day on which annuity payments are to begin under the contract is fixed and determined and is after the year in which the individual attains 35

(A) 69 years of age, where the individual had not attained that age before 1997, or

(B) 70 years of age, where the individual attained 69 years of age in 1996, and

(ii) the amount and timing of each annuity payment are fixed and determined, 5

clause 8503(2)(f)(iii)(B) of the Regulations, as enacted by subsection (1), applies in respect of the benefits as though the reference in that clause to "69 years of age" were a reference to "71 years of age". 10

23.(1) Subparagraph 8506(1)(e)(iii) of the Regulations is replaced by the following:

(iii) the retirement benefits are payable to the beneficiary beginning no later than on the later of one year after the day of death of the member and the end of the calendar year in which the beneficiary attains 69 years of age; 15

(2) Subsection (1) applies after 1996, except that

(a) subject to paragraph (b), subparagraph 8506(1)(e)(iii) of the Regulations, as enacted by subsection (1), applies in respect of benefits provided to an individual who attained 70 years of age before 1997 or 69 years of age in 1996 as though the reference in that subparagraph to "69 years of age" were a reference to "71 years of age" and "70 years of age" respectively; and 20

(b) where retirement benefits under a pension plan are provided to an individual by means of an annuity contract issued before March 6, 1996 and, under the terms and conditions of the contract as they read immediately before that day, 25

(i) the day on which annuity payments are to begin under the contract is fixed and determined and is after the year in which the individual attains 30

(A) 69 years of age, where the individual had not attained that age before 1997, or

(B) 70 years of age, where the individual attained 69 years of age in 1996, and

(ii) the amount and timing of each annuity payment are fixed and determined, 35

subparagraph 8506(1)(e)(iii) of the Regulations, as enacted by subsection (1), applies in respect of the benefits as though the reference in that subparagraph to "69 years of age" were a reference to "71 years of age".

24.(1) Section 8509 of the Regulations is amended by adding the following after subsection (11):

PA Limits – 1996 to 2003

(12) Neither subsection 147.1(8) nor (9) of the Act applies to render a registered pension plan a revocable plan at the end of any calendar year after 1995 and before 2004 solely because a pension adjustment, a total of pension adjustments or a total of pension credits of an individual for the year (each of which is, in this subsection, referred to as a "test amount") is excessive where the subsection would not apply to render the plan a revocable plan at the end of the year if each test amount were decreased by the lesser of

(a) the amount, if any, by which the lesser of

(i) the total of all amounts each of which is

(A) a pension credit under a defined benefit provision of a registered pension plan that is included in determining the test amount, or

(B) a pension credit under a money purchase provision of a registered pension plan or under a deferred profit sharing plan that is included in determining the test amount and that is taken into account, under paragraph 8302(2)(c), in determining a pension credit referred to in clause (A), and

(ii) \$15,500

exceeds the money purchase limit for the year, and

(b) the total of all amounts each of which is a pension credit referred to in clause (a)(i)(A).

Maximum Benefits Indexed Before 2005

(13) Where

(a) a pension plan is a grandfathered plan or would be a grandfathered plan if the references to "March 27, 1988" in the definitions "existing plan" and "grandfathered plan" in subsection 8500(1) were read as references to "March 5, 1996" and

the references to "March 28, 1988" in the definition "existing plan" in that subsection were read as references to "March 6, 1996",

(b) under the terms of the plan as they read immediately before March 6, 1996, the plan provided for benefits that are benefits to which a condition in any of subsections 8504(1), (5) and (6) and paragraph 8505(3)(d) applies and, at that time, the benefits complied with the condition, and 5

(c) as a consequence of the change in the defined benefit limit effective March 6, 1996, the benefits would, if this Part were read without reference to this subsection, cease to comply with the 10 condition,

the following rules apply:

(d) for the purpose of determining at any time after March 5, 1996 and before 1998 whether the benefits comply with the condition, the defined benefit limit for each year after 1995 is deemed to be the 15 amount that it would be if the definition "money purchase limit" in subsection 147.1(1) of the Act were applied as it read on December 31, 1995, and

(e) for the purpose of determining at any time after 1997 whether the benefits comply with the condition, the defined benefit limit for 1996 20 and 1997 is deemed to be the amount that it would be if it were determined in accordance with paragraph (d).

(2) Subsection 8509(12) of the Regulations, as enacted by subsection (1), applies after 1995.

(3) Subsection 8509(13) of the Regulations, as enacted by 25 subsection (1), applies after March 5, 1996, except that where

(a) the retirement benefits provided to an individual under a pension plan are provided by means of an annuity contract issued before March 6, 1996, and

(b) under the terms and conditions of the contract as they read 30 immediately before March 6, 1996,

(i) the day on which annuity payments are to begin under the contract is fixed and determined and is after 1997, and

(ii) the amount and timing of each annuity payment are fixed and determined,

subsection 8509(13) of the Regulations, as enacted by subsection (1), shall, in its application to those benefits, be read without reference to the words "and before 1998" in paragraph (d) of that subsection and without reference to paragraph (e) of that subsection.

25.(1) Subsection 8516(1) of the Regulations is replaced by the following: 5

8516.(1) For the purposes of subsection 147.2(2) of the Act, a contribution described in any of subsections (2) to (9) that is made by an employer to a registered pension plan in respect of the defined benefit provisions of the plan is a prescribed contribution. 10

(2) Section 8516 of the Regulations is amended by adding the following after subsection (8):

Actuarial Reports Signed Before March 6, 1996

(9) A contribution that is made by an employer to a registered pension plan is described in this subsection if 15

(a) the actuarial report containing the recommendation pursuant to which the contribution is made was signed before March 6, 1996;

(b) the contribution is made after March 5, 1996;

(c) the contribution would be an eligible contribution under subsection 147.2(2) of the Act if 20

(i) no contributions were prescribed for the purposes of that subsection, and

(ii) for the purpose of determining whether the actuarial valuation on which the recommendation is based complies with the condition in subparagraph (a)(iii) of that subsection, the defined benefit limit for each year after 1995 were equal to the amount that it would be if the definition "money purchase limit" in subsection 147.1(1) of the Act applied as it read on December 31, 1995; and 25

(d) where the contribution is made after 1996, the plan is not a designated plan under section 8515 at the time it is made. 30

(3) Subsections (1) and (2) apply after 1995.

26.(1) The portion of subsection 8517(1) of the Regulations before the formula is replaced by the following:

Prescribed Amount

8517.(1) Subject to subsections (2) to (3.1), for the purpose of applying paragraph 147.3(4)(c) of the Act to the transfer of an amount on behalf of an individual in full or partial satisfaction of the individual's entitlement to benefits under a defined benefit provision of a registered pension plan, the prescribed amount is the amount that is determined by the formula

(2) The table in subsection 8517(1) of the Regulations is replaced by the following:

Attained Age	Present Value Factor	Attained Age	Present Value Factor	
Under 50	9.0	73	9.8	
50	9.4	74	9.4	15
51	9.6	75	9.1	
52	9.8	76	8.7	
53	10.0	77	8.4	
54	10.2	78	8.0	
55	10.4	79	7.7	20
56	10.6	80	7.3	
57	10.8	81	7.0	
58	11.0	82	6.7	
59	11.3	83	6.4	
60	11.5	84	6.1	25
61	11.7	85	5.8	
62	12.0	86	5.5	
63	12.2	87	5.2	
64	12.4	88	4.9	
65	12.4	89	4.7	30
66	12.0	90	4.4	
67	11.7	91	4.2	
68	11.3	92	3.9	
69	11.0	93	3.7	
70	10.6	94	3.5	35
71	10.3	95	3.2	
72	10.1	96 or over	3.0	

(3) Section 8517 of the Regulations is amended by adding the following after subsection (3):

Benefits Provided With Surplus on Plan Wind-Up

(3.1) Where an amount is transferred in full or partial satisfaction of an individual's entitlement to benefits under a defined benefit provision of a registered pension plan and the benefits include benefits (in this subsection referred to as "ancillary benefits") that are permissible solely because of subsection 8501(7), the prescribed amount for the purpose of paragraph 147.3(4)(c) of the Act in respect of the transfer is the total of

(a) the amount that would, but for this subsection, be the prescribed amount, and

(b) an amount approved by the Minister not exceeding the lesser of

(i) the present value (at the time of the transfer) of the ancillary benefits that, as a consequence of the transfer, cease to be provided, and

(ii) the total of all amounts each of which is, in respect of a previous transfer from the provision to a money purchase provision of a registered pension plan, a registered retirement savings plan or a registered retirement income fund in full or partial satisfaction of the individual's entitlement to other benefits under the defined benefit provision, the amount, if any, by which

(A) the prescribed amount for the purpose of paragraph 147.3(4)(c) of the Act in respect of the previous transfer

exceeds

(B) the amount of the previous transfer.

(4) Subsections (1) and (3) apply to amounts transferred in respect of benefits provided after 1996.

(5) Subsection (2) applies to transfers that occur after 1995.

**Explanatory Notes to
the Draft Amendments
to the Income Tax
Regulations**

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Clause 1

ITR
4900(3)

Deferred Income Plans – Qualified Investments

Subsection 4900(3) of the Income Tax Regulations provides that a contract for an annuity purchased from a licensed annuities provider is a qualified investment for a trust governed by a deferred profit sharing plan (DPSP) or a revoked plan if certain conditions are satisfied. One of the conditions is that the contract must provide for payment of the annuity to commence no later than the annuitant's 71st birthday.

This condition is amended for contracts acquired after 1996. It is amended to require that, if the annuitant had not turned 69 years of age by the end of 1996, the contract provide for payment of the annuity to commence by the end of the year in which the annuitant turns 69. If the annuitant turned 69 in 1996, it must provide for payment to commence by the end of 1997.

Clause 2

ITR
6804(6)(c)

Foreign plans – Contributions Made After 1994

Section 6804 of the Regulations prescribes, for purposes of the definition of "resident's contribution" in subsection 207.6(5.1) of the Income Tax Act, certain contributions made to foreign pension plans. Prescribed contributions are, by definition, not resident's contributions and, consequently, are exempted from the rules in subsection 207.6(5) of the Act which result in foreign pension plan contributions being subject to the retirement compensation arrangement (RCA) rules. Normally, if contributions to a foreign pension plan in respect of a Canadian resident are prescribed under section 6804, a pension credit in respect of the individual and the plan is determined under section 8308.1 of the Regulations. The pension credit is included in the individual's pension adjustment (PA) and, thus, reduces deduction

room for contributions to registered retirement savings plans (RRSPs). The pension credit determined under existing section 8308.1 for a year is generally the lesser of (i) the money purchase limit for the year minus \$1,000, and (ii) 18% of the individual's compensation for the year minus \$1,000. These rules for determining foreign plan pension credits are amended to reduce the \$1,000 offsets to \$600 for years after 1996, and to provide that, from 1996 to 2003, there is no offset applied to the money purchase limit.

Subsection 6804(6) sets out conditions that a contribution made after 1994 to a foreign pension plan must satisfy in order to be prescribed. Subparagraph 6804(6)(c)(ii) deals with contributions made in respect of a Canadian resident who is employed by a foreign non-profit employer and who is also participating in a registered pension plan (RPP) of the employer. It provides that the contributions to the foreign plan will be prescribed only if the individual's PA for the year (assuming that a pension credit in respect of the foreign plan is determined under section 8308.1) does not exceed the lesser of the money purchase limit for the year and 18% of the individual's compensation for the year. In effect, for years before 1996, only an RPP pension credit of more than \$1,000 would result in a foreign plan contribution failing to comply with the requirements of subparagraph 6804(6)(c)(ii). However, with the changes made to the rules for determining foreign plan pension credits after 1995, a lesser RPP pension credit could result in contributions to a foreign pension plan failing to comply.

Subparagraph 6804(6)(c)(ii) is amended to ensure that the changes made to the rules for determining foreign plan pension credits are disregarded for the first year in which the changes apply. Thus, if a foreign non-profit employer provided RPP benefits to a high-income employee in 1996 on the assumption that the employee's foreign plan pension credit would be equal to the money purchase limit minus \$1,000 (rather than the money purchase limit), the provision of the RPP benefits will not result in contributions made to the foreign plan being subject to the RCA rules. Similarly, if such an employer provided RPP benefits in 1997 to a low- or middle-income employee assuming that the employee's foreign plan pension credit would be equal to 18% of compensation minus \$1,000 (rather than \$600), the provision of the benefits will not result in contributions made to the foreign plan being subject to the RCA rules.

Clauses 3 to 15

ITR

Part LXXXIII

Pension Adjustments, Past Service Pension Adjustments, Pension Adjustment Reversals and Prescribed Amounts

Part LXXXIII of the Regulations provides rules for calculating PAs, past service pension adjustments (PSPAs) and other prescribed amounts. These amounts reduce an individual's RRSP deduction room.

Part LXXXIII is amended to:

- introduce rules for calculating pension adjustment reversals (PARs) for individuals who terminate from DPSPs and from benefit provisions of RPPs;
- modify the rules for calculating PSPAs to reflect the introduction of PAR;
- reduce to \$600 the \$1,000 offset that is used in calculating pension credits and other prescribed amounts for individuals who accrue benefits under defined benefit RPPs and certain unregistered pension plans;
- restrict the portion of a transfer that may be counted as a qualifying transfer for PSPA purposes to the portion of the transfer made to fund post-1989 past service benefits; and
- implement measures relating to retirement savings announced in the 1995 and 1996 federal budgets.

Overview of PAR

PAR is a measure of the extent to which an individual's RRSP deduction room has been reduced on account of RPP or DPSP benefits that will not be paid to the individual.

When an individual participates in an RPP or DPSP, the individual's employer is required to report a PA each year to Revenue Canada.

The PA is the total of the individual's pension credits for the year under any DPSP or benefit provision of an RPP of which the individual is a member. Under a DPSP, the pension credit is the total of all contributions and forfeited amounts allocated to the individual in the year. Under a money purchase provision of an RPP, the pension credit is the total of all contributions, forfeited amounts and surplus allocated to the individual in the year. Under a defined benefit provision of an RPP, the pension credit is a standardized measure of the value of benefits that accrued to the individual under the provision in the year (determined in accordance with prescribed rules). An individual's PA for a year reduces the individual's RRSP deduction room for the following year. Similarly, when benefits are provided to an individual under a defined benefit provision of an RPP on a past service basis, the individual's RRSP deduction room is reduced by the PSPA associated with those benefits.

If an individual terminates from a DPSP or from a money purchase provision of an RPP before becoming vested, the individual's entitlement to amounts allocated under the plan or provision (other than the individual's contributions plus earnings) is forfeited. The individual's PAR will restore the RRSP deduction room previously given up on account of the allocation of the amounts that are now being forfeited. If an individual terminates from a defined benefit provision of an RPP, the termination benefit paid from the plan could be less than the total pension credits and PSPAs reported while the individual was a plan member. Generally, PAR will increase the individual's RRSP deduction room by the amount of the shortfall, thereby restoring RRSP deduction room that would otherwise be lost permanently.

PARs will be determined for individuals who terminate membership in a DPSP or under a benefit provision of an RPP after 1996 and before retirement benefits have commenced. This means, for example, that a PAR will be determined for an individual who, on conversion of an RPP from defined benefit to money purchase, ceases to have any entitlement to benefits under the defined benefit provision. However, a PAR will not be determined for an individual who, on terminating employment, elects to receive a deferred annuity under a benefit provision of an RPP since membership has not terminated.

DPSP trustees and RPP administrators will be required to calculate and report PARs to Revenue Canada. The first PAR information

returns will not have to be filed before the end of 1998. Thereafter, PARs will normally be required to be reported on a quarterly basis. PARs for terminations in 1997 will be added to an individual's RRSP deduction room for 1998. PARs for terminations in 1998 and subsequent years will be added to the individual's RRSP deduction room for the year in which the individual terminates membership. If an individual does not take advantage of the RRSP deduction room created by PAR in the year that it arises, it will be carried forward (like all other unused RRSP deduction room) for use in subsequent years.

As noted above, an individual's PAR under a defined benefit provision is generally the total of the individual's pension credits and PSPAs under the provision less any amounts paid from the provision in respect of the individual. However, some modifications will apply to the basic PAR calculation in certain situations. The following are the most notable:

- Amounts paid in respect of benefits for periods before 1990 – the first year for which PAs were determined – will not reduce PAR.
- In determining the amount of a PSPA that is to be included in PAR, certain adjustments will be made to ensure that the PA value of past service benefits is not understated. In particular, where a PSPA had been reduced by an amount transferred from an RRSP or money purchase provision of an RPP to fund past service benefits (i.e. a "qualifying transfer"), that reduction will be disregarded. If, by virtue of the modified PSPA rules in subsection 8304(5), a PSPA had been reduced by the PA value of defined benefits previously provided to the individual, that reduction will also be disregarded.
- An amount transferred between defined benefit provisions under a portability or reciprocal arrangement will not reduce the PAR determined for the individual under the exporting plan. However, there will be a reduction in the individual's PAR to reflect the extent to which the PA value of benefits provided to the individual under the exporting plan reduces the individual's PSPA under the importing plan.
- If an individual ceased in 1997 to be entitled to benefits under a defined benefit provision of an RPP and, by virtue of the modified

PSPA rules, the PA value of those benefits reduced a PSPA determined in connection with a past service event occurring later that year, there will be a corresponding reduction in the individual's PAR for 1997.

Effect of PARs on PSPAs

PSPAs arise when benefits are provided to an individual under a defined benefit provision of an RPP on a past service basis. Past service benefits are usually provided by upgrading benefits for prior years of pensionable service or by crediting additional periods of pensionable service. As noted earlier, PSPAs reduce an individual's RRSP deduction room. In many instances, past service benefits cannot be provided unless Revenue Canada has certified that the individual has enough RRSP deduction room to support the associated PSPA.

Presently, there are special rules (the "modified PSPA rules") for calculating PSPAs when:

- an individual transfers from one defined benefit provision of an RPP to another defined benefit provision of an RPP – as would be the case when an individual changes jobs and transfers past service benefits under a reciprocal or portability arrangement, or when an individual's benefits under a defined benefit provision of an RPP are replaced with benefits under another defined benefit provision of an RPP of the same employer;
- benefits previously forfeited or cashed-out by an individual under a defined benefit provision of an RPP are reinstated under the provision; or
- benefits are provided to an individual under a defined benefit provision of an RPP in respect of a period that had previously been pensionable service of the individual under another defined benefit provision of an RPP.

The modified PSPA rules allow the individual's PSPA to be offset by the PA value of benefits previously provided to the individual in respect of the past service period. This is because those benefits have previously been reflected in pension credits or PSPAs and, thus, have already reduced the individual's RRSP deduction room. This

reduction in the PSPA calculation ensures that there is no further reduction in the individual's RRSP deduction room. It also ensures that the individual is not prevented from acquiring the past service benefits due to a lack of RRSP deduction room to support the PSPA. To ensure that there is no doubling-up on tax assistance, amounts transferred to an RRSP or other money purchase type of registered plan in satisfaction of the benefits previously provided to the individual are included in the individual's PSPA.

With the introduction of PAR, an individual who ceases to be entitled to benefits under a defined benefit provision should normally have sufficient RRSP deduction room (including additional room created by PAR) and RRSP funds (including amounts transferred in satisfaction of those benefits) to support any PSPA associated with a subsequent reinstatement or replacement of the benefits. Under these circumstances, the rationale for the offset provided for under the modified PSPA rules no longer applies. Accordingly, the modified PSPA rules are being modified so that they no longer apply under these circumstances.

The modified PSPA rules will, however, continue to apply in the following two situations. First, for administrative reasons, they will apply when an individual transfers from one defined benefit provision of an RPP to another defined benefit provision of an RPP. To ensure that there is no doubling-up on tax assistance, the PAR determined under the exporting provision will be reduced to reflect the fact that the PSPA determined under the importing provision is offset by the PA value of the benefits provided to the individual under the exporting provision. In this situation, PAR and PSPA will often be nil. However, if there is a difference in the level of benefits provided under the two defined benefit provisions, a residual PAR or PSPA may have to be reported.

The modified PSPA rules will also continue to apply where an individual had terminated from a defined benefit provision before 1997 (i.e., before the introduction of PAR) and then re-establishes the past service benefits under the provision or under another defined benefit provision of an RPP. The continued application of the modified PSPA rules in this situation ensures that the individual's former benefits can be reinstated or replaced, and that this can be done with no further reduction in the individual's RRSP deduction room.

The changes to the PSPA rules will apply only with respect to past service events occurring after 1997. This means that individuals who terminated from a defined benefit provision of an RPP in 1997 and who, later that year, had their benefits reinstated or replaced will have had their PSPAs determined under the modified PSPA rules.

Accordingly, as is the case when an individual transfers from one defined benefit provision to another, the PAR determined in connection with the individual's termination in 1997 will be reduced to reflect the fact that the PA value of benefits previously provided to the individual has reduced the PSPA determined in connection with the reinstatement or replacement of benefits.

Clause 3

ITR

Part LXXXIII

The heading to Part LXXXIII of the Regulations is amended, effective after 1996, as a consequence of the amendments to that Part to provide for the determination of PARs.

Clause 4

ITR

8300

Interpretation

Section 8300 of the Regulations contains several interpretative provisions that apply for the purposes of determining amounts under Part LXXXIII.

Subclause 4(1)

ITR
8300(1)

Definitions

Subsection 8300(1) of the Regulations is amended to add definitions for "member" in relation to a DPSP or benefit provision of an RPP, "PA offset" and an individual's "resident compensation" from an employer for a year. These definitions apply after 1989, which is when Part LXXXIII came into force.

"member"

Subsection 8300(1) defines "member" in relation to a DPSP or benefit provision of an RPP as an individual who has a right to receive benefits under the plan or provision. This right may be to an immediate benefit, such as a pension-in-pay, or to a future benefit, such as a deferred pension. The right may be contingent, as would be the case, for example, when vesting requirements have not been satisfied, or it may be absolute. However, by virtue of new subsection 8300(13), it does not include a right to benefits that are to be or may be provided to an individual as a consequence of an allocation of surplus under a defined benefit provision of an RPP until such time as the benefits are provided; nor does it include a right to benefits, such as survivor benefits, that an individual has acquired only by virtue of the participation of another individual in the plan or under the provision.

This definition of "member" is similar to the definition of "member" of a pension plan set out in subsection 147.1(1) of the Act, but differs in two significant ways. First, it applies to DPSPs as well as to RPPs. Second, in the case of RPPs, it applies on a provision-by-provision basis, rather than to the plan as a whole.

The definition of "member" is relevant to the determination of whether an individual has terminated from a DPSP or from a benefit provision of an RPP and, as such, may be eligible for a PAR. (For further details on termination, see the commentary on new subsections 8300(10) to (12).)

"PA offset"

Subsection 8300(1) defines the term "PA offset" to be \$1,000 for 1990 to 1996, and \$600 for 1997 and future years. It is relevant in the calculation of pension credits for individuals who accrue benefits under a defined benefit provision of an RPP. It is also relevant in determining pension credits and prescribed amounts for individuals who participate in certain unregistered retirement arrangements, such as foreign pension plans and the pension arrangement for federal judges.

This definition is added for clarity and, except for the reduction to \$600 after 1996, it does not represent a change in policy.

"resident compensation"

Subsection 8300(1) defines an individual's "resident compensation" from an employer for a year to have the same meaning as the definition of "compensation" in subsection 147.1(1) of the Act, but without including amounts referred to in paragraphs (b) and (c) of that definition. Consequently, resident compensation includes only those amounts referred to in paragraph (a) of that definition. This means that resident compensation includes remuneration received for services rendered while resident in Canada. It also includes remuneration received for services rendered while not resident in Canada, if the services were performed in Canada and the remuneration is not exempt from income tax in Canada by virtue of a tax convention.

Resident compensation does not include compensation that is prescribed under section 8507 of the Regulations in respect of periods of leave or disability, as referred to in paragraph (b) of the definition of "compensation" in subsection 147.1(1). Nor does it include non-resident, non-taxable remuneration that is otherwise approved by Revenue Canada for inclusion under paragraph (c) of the definition of "compensation" in subsection 147.1(1).

The definition of "resident compensation" is used in sections 8308.1 to 8308.3. It is added for clarity and does not represent a change in policy.

Subclause 4(2)

ITR
8300(5)

Acquisition of Annuity Contract

Subsection 8300(5) of the Regulations provides that, where an individual acquires an interest in an annuity contract in lieu of benefits under a defined benefit provision of an RPP, the rights of the individual under the contract are considered to be rights under the defined benefit provision.

This subsection is amended to provide that it does not apply for purposes of the new definition of "member" in subsection 8300(1) of the Regulations. This amendment is consequential on the introduction of new subsections 8304.1(5) and (15), which provide for a nil PAR if an individual who ceases to be a member in relation to a defined benefit provision of an RPP has acquired an interest in an annuity contract in full or partial satisfaction of benefits otherwise provided under the provision.

Subclause 4(3)

ITR
8300(7)

Entitlement to Benefits Contingent on Vesting

Several provisions in Part LXXXIII of the Regulations refer to the benefits to which an individual is entitled under a pension plan or DPSP. Subsection 8300(7) clarifies that an individual is considered to be entitled to benefits even though the individual's right to the benefits is contingent on satisfying the plan's vesting requirements.

Subsection 8300(7) is amended to add references to new subsection 8304(5.1) (*modified PSPA rules for past service events occurring after 1997*) and new paragraphs 8304.1(10)(c) and (11)(c) (*special PAR rules for transfers*). Subsection 8300(7) is also amended to clarify its application to existing subparagraph 8306(4)(a)(ii) (*"active member" definition for exemption from PSPA certification*) and to

existing subsection 8308(3) (*special PA/PSPA rules regarding remuneration for prior years*).

The amendments to subsection 8300(7) apply from the day on which the subsection came into force.

Subclause 4(4)

Subclause 4(4) adds a number of new subsections to section 8300. These subsections apply after 1989, which is when Part LXXXIII came into force.

ITR
8300(9)

Intra-Plan Transfers

Several provisions in Parts LXXXIII and LXXXV of the Regulations refer to property being transferred from one benefit provision of an RPP to another benefit provision of the same plan. New subsection 8300(9) clarifies that, where property held under one benefit provision of an RPP is made available to pay benefits under another benefit provision of the same plan, the property is considered to have been transferred from the first benefit provision to the second benefit provision.

ITR
8300(10)

Meaning of "termination"

New subsection 8300(10) of the Regulations provides that an individual is considered to have terminated from a DPSP, or from a benefit provision of an RPP, when the individual ceases to be a member in relation to the plan or the provision. If an individual terminates after 1996 from a DPSP or from a benefit provision of an RPP and certain other conditions are satisfied, a PAR is determined for the individual.

By virtue of the definition of "member" in subsection 8300(1), an individual will be considered to have terminated from a DPSP, or from a benefit provision of an RPP, only when the individual has

completely ceased to have any rights to benefits under the plan or provision. Normally, this would be when the final payment in respect of the individual is made from the plan or provision or, if no such payments are to be made, when the individual terminates employment. In the case of a conversion of an RPP from defined benefit to money purchase (or vice versa), it would be at the point in time when the individual ceases to have any entitlement to benefits under the original benefit provision – which means that an individual who retains an entitlement to benefits under the original provision after conversion will not qualify for a PAR calculation. (The requirement to calculate PAR on conversion of an RPP from defined benefit to money purchase is illustrated in example 1 following the commentary on subsection 8304.1(16).)

Subsection 8300(10) is subject to new subsections 8300(11) and (12). Those subsections provide special rules for determining if, and when, an individual who ceases to be a member in relation to a particular defined benefit provision may be considered to have terminated from the provision. Subsection 8300(11) deals, in particular, with defined benefit provisions under which benefits are offset by benefits provided under a DPSP or money purchase provision of an RPP. Subsection 8300(12) deals with defined benefit provisions that are inter-dependent.

ITR
8300(11)

Termination – Defined Benefit Provision with Money Purchase Offset

New subsection 8300(11) of the Regulations applies to an individual who ceases, after 1996, to be a member in relation to a defined benefit provision of an RPP where benefits under the provision are offset by benefits payable under a DPSP or under a money purchase provision of an RPP. A DPSP or money purchase provision is considered to be an "offset provision" if, by virtue of paragraph 8302(2)(c) of the Regulations, contributions made to the plan or the provision in respect of the individual had been taken into account in determining a pension credit for the individual under the defined benefit provision. In effect, subsection 8300(11) provides that no defined benefit PAR is determined for the individual until the individual has terminated from each offset provision and then only if

no benefits (other than lump sum amounts) were paid with respect to the individual under the offset provisions.

More specifically, paragraph 8300(11)(c) provides that an individual is deemed not to have terminated from a defined benefit provision until the individual has also terminated from all offset provisions. Where an individual is considered to have terminated from a defined benefit provision, paragraph 8300(11)(d) provides that the conditions in subsection 8304.1(15) – which must be satisfied in order for PAR to be determined under the provision – are deemed not to be satisfied unless the termination conditions in subsections 8304.1(14) and (15) are satisfied with respect to the individual's termination from each of the offset provisions. (For this purpose, the condition that the termination must have occurred after 1996 is disregarded.) The application of paragraph 8300(11)(d) is illustrated in the following example.

Example

An employer maintains a money purchase RPP for all employees and a supplementary defined benefit RPP for executives. Benefits under the defined benefit RPP are offset by the benefits that can be purchased at retirement from the member's account under the money purchase RPP. On retirement, Al acquires ownership of an annuity contract in full satisfaction of his entitlement to benefits under the money purchase RPP. In addition, he arranges to have the commuted value of his defined benefit pension transferred to an RRSP. By virtue of paragraphs 8300(11)(d) and 8304.1(15)(c), the defined benefit termination conditions are deemed not to be satisfied because of the acquisition of the annuity. Thus, although Al terminated from the defined benefit RPP and otherwise satisfied the defined benefit termination conditions, Al's defined benefit PAR is zero.

Subsection 8300(11), in conjunction with the rules in new subsection 8304.1(5) for determining defined benefit PARs and the description of "excess money purchase offset" in new subsection 8304.1(12), is intended to ensure that an individual's defined benefit PAR appropriately reflects the value of benefits provided to the individual under an offset provision.

ITR
8300(12)

Termination – Dependent Defined Benefit Provisions

New subsection 8300(12) of the Regulations applies to an individual who participates in more than one defined benefit provision of an RPP, where benefits provided to the individual under one of the provisions are supplemental to, or otherwise dependent on, benefits provided to the individual under the other provisions. (These provisions – including the dependent provision – are referred to in subsection 8300(12) as "related provisions".)

In effect, subsection 8300(12) provides that no defined benefit PAR is determined for the individual under any of the related provisions until the individual ceases to be a member in relation to all of the related provisions and then only if no benefits (other than lump sum amounts) were paid with respect to the individual under the related provisions. Subsection 8300(12) also contains a rule dealing with lump sum amounts paid under related provisions, the effect of which is to ensure that the sum of the individual's PARs under all related provisions is not more than the PAR that would be determined if the provisions were a single provision.

More specifically, paragraph 8300(12)(a) provides that, where the individual ceases after 1996 to be a member in relation to one of the related provisions and is still a member in relation to one or more other related provisions, the individual is deemed not to have terminated from any of those provisions until the individual has ceased to be a member in relation to all of those provisions. (The deferred termination date provided for under this paragraph does not apply to any related provisions in relation to which the individual had ceased to be a member before 1997.)

Where the individual is considered to have terminated from each of the related provisions, paragraph 8300(12)(b) provides that the conditions in new subsection 8304.1(15) – which must be satisfied in order for a defined benefit PAR to be determined – are deemed not to be satisfied with respect to any of the related provisions unless they are satisfied with respect to all of the related provisions. (For this purpose, the condition that the termination must have occurred after 1996 is disregarded.)

Paragraph 8300(12)(c) provides that a specified distribution made in respect of the individual from one of the related provisions is deemed also to have been made in respect of the individual from each of the other related provisions. "Specified distribution" is defined in new subsection 8304.1(8). In general terms, it is a lump sum amount paid in respect of an individual under a defined benefit provision that may reasonably be considered to relate to benefits provided under the provision in respect of post-1989 pensionable service, and it reduces the individual's PAR under the provision. Thus, the effect of paragraph (c) is that a lump sum payment made under one of the related provisions will reduce the individual's PAR under all of the related provisions.

Revenue Canada is permitted to waive, in whole or in part, the application of the deeming provision in paragraph 8300(12)(c) to a specified distribution made under a defined benefit provision. It is expected that Revenue Canada would exercise this discretion when an individual's total PARs under all related provisions (determined without any waiver under paragraph 8300(12)(c)) is less than the PAR that would have been determined if the related provisions had been a single defined benefit provision. The application of the waiver provided for in paragraph 8300(12)(c) is illustrated in the following example.

Example

An employer participates in a multi-employer pension plan (the "basic plan") that covers all employees. The employer also maintains a supplemental plan for professional staff. The basic plan provides a 1.3% benefit on earnings up to the Year's Maximum Pensionable Earnings, and a 2% benefit on earnings above, with no ancillary benefits. The supplemental plan provides a 2% benefit on all earnings, with some ancillary benefits. Benefits under the supplemental plan are offset by benefits under the basic plan.

After two years, the company's accountant, George, terminates employment. He had been a member of both plans. His total pension credits were \$12,140 under the basic plan and \$4,660 under the supplemental plan. He receives a lump sum payment of \$8,890 from the basic plan and \$7,110 from the supplemental plan. Had the two plans been a single plan (and a single

provision), George's PAR would have been \$800 (= (\$12,140 + \$4,660) - (\$8,890 + \$7,110)). However, as separate related plans which are subject to paragraph 8300(12)(c), George's PAR under the basic plan is nil (= \$12,140 - \$8,890 - \$7,110) and, under the supplemental plan, it is also nil (= \$4,660 - \$7,110 - \$8,890).

It is expected that, in this situation, Revenue Canada would exempt from the deeming rule in paragraph 8300(12)(c) the full \$8,890 paid from the basic plan and all but \$2,450 of the \$7,110 paid from the supplemental plan. As a result, George's PAR under the basic plan would be \$800 (= \$12,140 - \$8,890 - \$2,450) and, under the supplemental plan, it would be nil (= \$4,660 - \$7,110), for a total PAR of \$800.

ITR
8300(13)

Entitlement to Surplus

New subsection 8300(13) of the Regulations provides that an individual's right to surplus under a defined benefit provision of an RPP is not considered to be a right to benefits until such time as the surplus is used to provide benefits to the individual.

This rule is relevant in determining whether an individual has terminated from a defined benefit provision for the purpose of determining PAR. If a defined benefit plan is being wound-up, for example, a member might elect to fully commute existing benefits before a final determination is made on the ownership of the plan's surplus. In this case, the individual would be considered to have terminated from the defined benefit provision at the time of commutation of the benefits promised under the terms of the plan. Consequently, a PAR would be determined at that time, even though there is a possibility that surplus will be used in the future to provide additional benefits to the individual.

If surplus is subsequently used to provide additional benefits, the individual would be considered to have again become a member in relation to the provision at the time the benefits are provided. Any subsequent commutation of these additional benefits would constitute another termination from the provision and give rise to another determination of PAR (assuming the conditions in

subsection 8304.1(15) are satisfied). As discussed in the commentary on subsection 8304.1(13), this subsequent PAR would be determined without regard for anything that happened during the individual's previous period of membership.

It should be noted that new subsection 8501(7) allows surplus under a defined benefit provision of an RPP to be used on plan wind-up to provide former members with stand-alone ancillary benefits (i.e., ancillary benefits such as indexing and survivor benefits that are associated with previously commuted lifetime retirement benefits). However, if the former member terminated after 1996 and before retirement benefits commenced to be paid (i.e., under conditions which gave rise to a PAR calculation), the application of subsection 8501(7) is restricted to stand-alone ancillary benefits provided in respect of pre-1990 service. (See the commentary on subsection 8501(7) for further details.)

Clause 5

ITR
8301

Pension Adjustment

Section 8301 of the Regulations provides rules for calculating an individual's PA and the various pension credits that are included in determining PAs.

Subclause 5(1)

ITR
8301(3)(a)

Non-Vested Termination from DPSP

Subsection 8301(3) of the Regulations provides that, where an employee who is participating in a DPSP terminates employment before becoming vested, the employee's pension credit under the plan for the year of termination is nil. Paragraph 8301(3)(a) is amended to restrict the application of subsection 8301(3) to the determination of pension credits for years before 1997. This amendment is

consequential on the introduction of PAR and applies from the day on which subsection 8301(3) came into force.

Subclause 5(2)

ITR

8301(6)

Pension Credit – Defined Benefit Provision

Subsection 8301(6) of the Regulations defines an individual's pension credit under a defined benefit provision of an RPP in respect of an employer for a year after 1989 as the amount by which

(a) 9 times the individual's benefit entitlement (determined in accordance with the rules set out in section 8302) under the provision for the year in respect of the employer

exceeds

(b) \$1,000 (or a portion thereof reflecting the extent to which the \$1,000 offset has already been used in determining the individual's pension credits for the year under certain other defined benefit provisions or in respect of certain other employers).

Subsection 8301(6) is amended to replace the existing narrative description of the pension credit calculation with the formula:

$$A - B$$

Variables A and B in this formula are the same as the amounts described in paragraphs (a) and (b) above, respectively. However, in the description of B, the reference to \$1,000 is replaced by a reference to the "PA offset" for the year for which the pension credit is calculated. "PA offset" is defined, in subsection 8300(1), to be \$1,000 for years before 1997, and \$600 for 1997 and subsequent years. The effect of the reduction in the PA offset is to reduce the annual RRSP contribution room for defined benefit pension plan members by \$400, starting in 1998. This is consequential on the introduction of PAR.

The amendments to subsection 8301(6) are intended to clarify the rules for calculating defined benefit pension credits and, apart from the reduction in the PA offset, do not represent a change in policy. They apply from the day on which subsection 8301(6) came into force.

Subclause 5(3)

ITR
8301(7)(b)

Pension Credit – Defined Benefit Provision of Multi-Employer Plan

Subsection 8301(7) of the Regulations contains special rules for calculating an individual's pension credits for a year in respect of an employer under a defined benefit provision of a multi-employer plan that is not a specified multi-employer plan. Paragraph 8301(7)(b) provides that the individual's pension credit is to be determined in accordance with subsection 8301(6), but it requires that the \$1,000 offset provided by paragraph 8301(6)(b) be prorated based on services rendered by the individual to the employer in the year.

Paragraph 8301(7)(b) is amended to reflect the changes made to subsection 8301(6) to introduce a formula for determining pension credits and to reduce the \$1,000 offset to \$600 in determining pension credits for 1997 and subsequent years.

Subclause 5(4)

ITR
8301(8)(a)

Non-Vested Termination from RPP

Subsection 8301(8) of the Regulations provides that, where an employee who is participating in an RPP terminates employment before becoming vested, the employee's pension credit under a benefit provision of the plan for the year of termination does not exceed the contributions made by the individual under the provision in the year. Paragraph 8301(8)(a) is amended to restrict the application of subsection 8301(8) to the determination of pension

credits for years before 1997. This amendment is consequential on the introduction of PAR and applies from the day on which subsection 8301(8) came into force.

Subclause 5(5)

ITR
8301(10)(e)

Transition Rule – Money Purchase Offsets

Subsection 8301(10) of the Regulations provides a special adjustment to the pension credit of an individual under a defined benefit provision of an RPP where benefits under the provision are offset by benefits that can be purchased at retirement from the individual's account under a money purchase provision and where certain other conditions are met. The rules for determining the adjustment contain a reference to subsection 8301(6).

The description of C in subparagraph 8301(10)(e)(ii) is amended to reflect a restructuring of subsection 8301(6). This amendment, which applies after 1989, does not represent a change in policy.

Clause 6

ITR
8303

Past Service Pension Adjustment

Section 8303 of the Regulations provides rules for determining an individual's PSPA for a year in respect of an employer; this amount is relevant in determining the individual's RRSP deduction room for the year.

In general terms, an individual's PSPA for a year in respect of an employer is the individual's accumulated PSPA for the year in respect of the employer. An individual's accumulated PSPA for a year in respect of an employer is the total of all provisional PSPAs of the individual in respect of the employer (i) for which Revenue Canada has, in the year, issued a certification for the purposes of

subsection 147.1(10) of the Act, or (ii) that is associated with a past service event occurring in the year and for which a certification of Revenue Canada is not required.

Subclause 6(1)

ITR
8303(2)

Accumulated PSPA for Year

Subsection 8303(2) of the Regulations defines the accumulated PSPA of an individual for a year. The definition applies, in part, for purposes of computing an individual's net past service pension adjustment (net PSPA) under former subsection 204.2(1.3) of the Act.

Subsection 8303(2) is amended to remove the reference to subsection 204.2(1.3). This amendment, which applies after 1995, is consequential on amendments to subsection 204.2(1.3) relating to measures announced in the 1995 federal budget.

Subclauses 6(2) and (3)

ITR
8303(3)

Provisional PSPA

Subsection 8303(3) of the Regulations sets out the basic rules for determining an individual's provisional PSPA in respect of an employer associated with a past service event. A past service event occurs when benefits are provided to an individual under a defined benefit provision of an RPP in respect of periods before the event occurs, such as when existing benefits are upgraded or when additional periods of pensionable service are credited. In general terms, the provisional PSPA is the sum of the additional pension credits that would have been determined for prior years if the past service benefits had been provided to the individual on a current service basis.

More specifically, an individual's provisional PSPA in respect of an employer associated with a particular past service event is the amount determined by the formula

$$A - B - C$$

where

A is the total of the individual's defined benefit pension credits in respect of the employer, recalculated to reflect all benefits to which the individual is entitled at the time the past service event occurs (i.e., including benefits provided as a consequence of the particular past service event and any prior past service events),

B is the total of the individual's defined benefit pension credits in respect of the employer, recalculated to reflect all benefits to which the individual was entitled immediately before the past service event (i.e., including benefits provided as a consequence of any prior past service events but not the particular past service event), and

C is the amount of the individual's qualifying transfers from RRSPs, RPPs and DPSPs to fund benefits provided as a consequence of the particular past service event (determined in accordance with the rules set out in subsection 8303(6) of the Regulations).

The definition of provisional PSPA in subsection 8303(3) is subject to special rules (referred to as the "modified PSPA rules") in subsection 8304(5), which modify the determination of an individual's provisional PSPA in certain circumstances. The modified PSPA rules apply when

- an individual transfers from one defined benefit provision of an RPP to another defined benefit provision of an RPP – as would be the case when an individual changes jobs and transfers past service benefits under a reciprocal or portability arrangement, or when an individual's benefits under a defined benefit provision of an RPP are replaced with benefits under another defined benefit provision of an RPP of the same employer,

- benefits previously forfeited or cashed-out by an individual under a defined benefit provision of an RPP are reinstated under the provision, or
- benefits are provided to an individual under a defined benefit provision of an RPP in respect of a period that had previously been, but ceased to be, pensionable service of the individual under another defined benefit provision of an RPP.

The effect of the modified PSPA rules is to provide for an individual's provisional PSPA in respect of an employer to be determined under the basic rules in subsection 8303(3), but with two modifications.

- First, the benefits previously provided to the individual in respect of the past service period are taken into account in determining the value of B in the basic PSPA formula – regardless of the fact that, in most cases, the benefits would have been attributable to employment of the individual with a prior employer or would have been previously forfeited or cashed-out by the individual. In effect, this means that the individual's provisional PSPA will be greater than nil only if the new lifetime retirement benefits provided in respect of the past service period exceed the lifetime retirement benefits previously provided to the individual in respect of the past service period.
- Second, any amount transferred to an RRSP or other money purchase type of registered plan in respect of the previously-provided benefits is added to the provisional PSPA. This ensures that the individual is not able to double-up on tax assistance by retaining benefits for the past service period in money purchase form.

With the introduction of PAR, amendments are being made to limit the circumstances in which the modified PSPA rules apply when determining provisional PSPAs associated with past service events occurring after 1997. In particular, the modified PSPA rules will no longer apply

- when benefits previously provided to an individual under a defined benefit provision are reinstated, unless the individual had terminated from the provision before 1997, or

- when benefits are provided to an individual under a defined benefit provision of an RPP in respect of a period that had previously been, but ceased to be, pensionable service of the individual under another defined benefit provision of an RPP, unless the individual had terminated from the other provision before 1997.

The fact that the modified PSPA rules no longer apply in these circumstances means that there is no reduction in the individual's provisional PSPA on account of the recalculated pension credits for benefits previously provided to the individual. This is appropriate given that the individual should have sufficient RRSP deduction room (including any additional room created by PAR on termination) and RRSP funds (including any amount transferred in satisfaction of the previous benefits) to accommodate the reinstatement or replacement of those benefits.

Because the provisional PSPA is determined under the basic PSPA rules in these circumstances, there is no inclusion, in the PSPA calculation, of amounts transferred to an RRSP or other money purchase type of registered plan in respect of the benefits previously provided to the individual. This means that, where such transfers exceeded the PA value of the previous benefits, the individual could retain the excess in money purchase form – which would not have been the case if the modified PSPA rules had applied. Accordingly, to prevent doubling-up on tax assistance in this way, the basic PSPA rules are being amended to include this excess amount in the individual's provisional PSPA. Specifically, the formula in subsection 8303(3) is amended to include in an individual's provisional PSPA associated with a past service event occurring after 1997 the amount of any "excess money purchase transfer" in relation to the individual and the past service event (new variable D) as defined in new subsection 8303(7.1). (See the commentary on subsection 8303(7.1) for further details.)

The determination of an individual's provisional PSPA under subsection 8303(3) is also affected by the amendments made to the rules for determining the amount of an individual's qualifying transfers (variable C in the formula in subsection 8303(3)) made in connection with a past service event. First, the definition of qualifying transfers in subsection 8303(6) is expanded to include transfers from other provisions of the plan under which the past

service benefits are being provided (i.e., intra-plan transfers). Second, the definition is narrowed, by virtue of new subsection 8303(6.1), to include only amounts transferred to fund post-1989 past service benefits. These changes generally apply to transfers made on or after Announcement Date. (See the commentary on subsections 8303(6) and (6.1) for further details.)

The application of the basic PSPA rules in calculating provisional PSPAs is illustrated in examples 5(b) to (d) and example 7 following the commentary on subsection 8304.1(16).

Subclause 6(4)

ITR

8303(6) and (6.1)

Qualifying Transfers, Exclusion for Pre-1990 Benefits

Subsection 8303(6) of the Regulations defines, for the purposes of the description of C in the formula in subsection 8303(3) (*basic PSPA rules*) and the description of D in the formula in subsection 8304(5) (*modified PSPA rules*), the amount of an individual's qualifying transfers made in connection with a past service event. It is defined to be the sum of amounts transferred to fund the past service benefits where the amounts are transferred in accordance with subsections 146(16) (*transfers from RRSPs*), 147(19) (*transfers from DPSPs*), 147.3(2) (*transfers from money purchase provisions of other RPPs*) and 147.3(5) and (7) (*transfers from other registered plans on marriage breakdown or death*) of the Act, or are transferred from a specified multi-employer plan in accordance with subsection 147.3(3) of the Act. The amount of the individual's qualifying transfers is applied to offset the provisional PSPA associated with the crediting of the past service benefits.

Subsection 8303(6) is amended in two ways. First, it is amended to include as a qualifying transfer a transfer of property between benefit provisions of the same plan made to fund past service benefits, where the transfer would be in accordance with any of subsections 147.3(2), (5) and (7) of the Act if the two provisions were in separate RPPs. Such a transfer would usually occur where an individual's benefits under a money purchase provision of an RPP are replaced by past

service benefits under a defined benefit provision of the same plan – on plan conversion, for example. This amendment applies to any transfer occurring on or after Announcement Date and, with the approval of the Minister of National Revenue, to a transfer that occurred before Announcement Date.

Second, subsection 8303(6) is amended so that it is subject to new subsection 8303(6.1). Subsection 8303(6.1) restricts the amount of a transfer that may be counted as a qualifying transfer to the portion of the transfer that can reasonably be considered to have been made to fund post-1989 past service benefits. This is consistent with the fact that only benefits provided in respect of post-1989 service are taken into account in determining the individual's provisional PSPA. Subsection 8303(6.1) applies to transfers occurring on or after Announcement Date.

ITR

8303(7)

Deemed Payment

Subsection 8303(7) of the Regulations deems an amount to have been paid to an RPP where an individual has given an irrevocable direction that, within 90 days of Revenue Canada certifying a provisional PSPA of the individual, the amount is to be paid to the RPP. This rule applies for the purpose of subsection 8303(6), and enables the amount to be counted as a qualifying transfer for purposes of determining the individual's provisional PSPA even though the actual transfer will not occur until after the certification is issued.

Subsection 8303(7) is amended in two ways. First, it is amended to include an irrevocable direction to transfer property between two provisions of the same plan. This amendment is consequential on the amendment to subsection 8303(6), which provides for certain intra-plan transfers to be included as qualifying transfers for PSPA purposes.

Second, subsection 8303(7) is amended to accommodate the crediting of past service benefits under a pension plan that has been submitted, but not yet accepted, for registration. In this situation, the deadline for making the transfer is extended to 90 days after the later of the certification being issued and the plan being registered. This is

consistent with the fact that paragraph 147.1(3)(a) of the Act – which deems a pension plan submitted for registration to be an RPP for certain purposes – does not apply to transfers between pension plans, which means that a transfer from an RPP to fund past service benefits cannot be made until the plan providing the benefits is actually registered.

These amendments apply to any transfer occurring on or after Announcement Date and, with the approval of the Minister of National Revenue, to a transfer that occurred before Announcement Date.

ITR
8303(7.1)

Excess Money Purchase Transfer

New subsection 8303(7.1) of the Regulations defines, for the purpose of the description of D in the formula in subsection 8303(3), an individual's excess money purchase transfer in relation to a past service event. The amount of such a transfer is added to the individual's provisional PSPA associated with the past service event.

In general terms, an excess money purchase transfer arises when an individual who terminated from a defined benefit provision after 1996, and transferred the termination benefit to an RRSP or other money purchase type of registered plan, subsequently re-establishes the past service benefits under the same provision or under another defined benefit provision. Essentially, the excess money purchase transfer is equal to the amount by which the post-1989 portion of the transfer exceeds the PA value of the former benefits.

More specifically, an excess money purchase transfer is determined when past service benefits become provided to an individual under a defined benefit provision of an RPP as a consequence of a past service event occurring after 1997 and all of the following conditions are met.

- The period in respect of which the benefits are provided (the "past service period") was previously pensionable service under a defined benefit provision (the "former provision") of an RPP (other than a specified multi-employer plan). For this purpose, the

former provision could be the same provision as that under which the past service benefits are being provided or another defined benefit provision.

- The past service period had ceased to be pensionable service under the former provision as a result of the individual commuting and transferring benefits from the former provision to an RRSP or other money purchase type of registered plan (the transfer being referred to as the "money purchase transfer").
- The past service period had not, at any time after the money purchase transfer and before the past service event, been pensionable service of the individual under the provision or under any other defined benefit provision of an RPP (other than a specified multi-employer plan). This is to ensure that, to the extent that the money purchase transfer has been taken into account in determining a provisional PSPA associated with a previous past service event (whether determined under the basic or modified PSPA rules), it is not again taken into account in determining a provisional PSPA associated with the current past service event.
- The past service period is not a "qualifying past service period" as defined in new subsection 8304(5.1). This is because, if the period is a qualifying past service period, the individual's provisional PSPA will be determined under the modified PSPA rules and, thus, will include the full amount of the money purchase transfer (rather than just the excess). Normally, the period would be a qualifying past service period if the individual had terminated from the former provision before 1997.

Where the above conditions are met, the individual's excess money purchase transfer in relation to the past service event is equal to the amount determined by the formula

$$A - B$$

where

A is the portion of the money purchase transfer that relates to benefits provided under the former provision in respect of the past service period, but excluding benefits in respect of periods before 1990, and

B is the total of the individual's prior pension credits and grossed-up provisional PSPA amounts attributable to benefits provided under the former provision in respect of the past service period.

The rules for determining grossed-up provisional PSPA amounts (as referred to in the description of B) are set out in new subsection 8304.1(7). Generally speaking, the grossed-up amount of a provisional PSPA is the amount that would be determined to be the provisional PSPA if certain amounts – such as qualifying transfers and redetermined pension credits attributable to defined benefits provided under an RPP of a previous employer – were disregarded. Using the grossed-up amount, rather than the actual amount, of a provisional PSPA ensures that variable B reflects the PA value of the benefits provided to the individual under the former provision in respect of the past service period. (See the commentary on subsection 8304.1(7) for further details.)

As noted in the commentary on subsection 8303(3), the inclusion of the excess money purchase transfer in the basic PSPA formula is consequential on amendments limiting the circumstances in which the modified PSPA rules in subsection 8304(5) apply with respect to past service events occurring after 1997. It ensures that a money purchase transfer that would have been included in determining an individual's provisional PSPA under the modified PSPA rules is appropriately reflected in determining the individual's provisional PSPA under the basic PSPA rules so as to prevent the doubling-up on tax assistance that would be available if the individual were allowed to retain the excess portion of the transfer in money purchase form. Example 7, following the commentary on subsection 8304.1(16), illustrates a situation in which an excess money purchase transfer is included in calculating an individual's provisional PSPA.

It should be noted that, to the extent that the PA value of new benefits being provided to an individual for a past service period is less than the PA value of benefits previously provided to the individual for the period, the individual may be permitted to retain in money purchase form some portion of a money purchase transfer made in respect of the previous benefits. Specifically, if the transfer exceeded the PA value of the new benefits, the individual may retain the lesser of that excess and the difference between the two PA values. This is illustrated in the following example.

Example

Hélène terminates from a defined benefit provision of an RPP. Her pension credits under the plan totalled \$40,000. She transfers the termination benefit of \$45,000 to an RRSP. Later, she is provided with benefits under a defined benefit provision of another RPP in respect of her prior pensionable service. The redetermined pension credits for these new benefits is \$36,000. Hélène has an excess money purchase transfer of \$5,000 ($= \$45,000 - \$40,000$), which is included in her provisional PSPA under the new plan. She makes no qualifying transfers to fund the past service benefits, so her provisional PSPA is \$41,000 ($= \$36,000 - 0 - 0 + \$5,000$). She has enough RRSP deduction room to support the certification of the PSPA, which results in a \$41,000 reduction in her RRSP deduction room. This is \$4,000 less than the money purchase transfer, which is the difference between the PA values of the previous benefits and the new benefits provided in respect of the past service period (i.e., $\$40,000 - \$36,000$).

Clause 7

ITR

8304

Past Service Benefits – Additional Rules

Section 8304 of the Regulations contains additional rules relating to the determination of PSPAs and pension credits.

Subclause 7(1)

ITR

8304(4)(c)

Past Service Benefits in Year of Past Service Event – Exceptions

Subsection 8304(4) of the Regulations sets out certain exceptions to the application of subsection 8304(3).

Subsection 8304(3) contains special rules that apply when past service benefits are provided to an individual under a defined benefit

provision of an RPP in respect of a period in the year in which the past service event occurs (referred to as a "stub period"). Normally, past service benefits provided to an individual under a defined benefit provision in respect of a stub period would be reflected in the individual's pension credit for the year. However, subsection 8304(3) requires that such benefits be disregarded in determining the individual's pension credit under the provision and requires that the benefits be reflected, instead, in a provisional PSPA of the individual.

Paragraph 8304(4)(c) provides that subsection 8304(3) does not apply when benefits that have been forfeited or cashed-out by an individual in a year are reinstated under the provision later that year, provided there were no transfers in the year on behalf of the individual from the defined benefit provision to an RRSP or other money purchase type of registered plan. Since subsection 8304(3) does not apply, the benefits provided to the individual in respect of the stub period are reflected in the individual's pension credit for the year, rather than in a provisional PSPA.

The application of paragraph 8304(4)(c) is repealed for past service events occurring after 1996. Consequently, when an individual's benefits in respect of a stub period are reinstated in the same year in which they are forfeited or cashed-out, subsection 8304(3) requires that they be reflected in determining a provisional PSPA for the individual. By virtue of subsection 8302(5), there is also a requirement for the benefits originally provided to the individual in respect of the stub period to be reflected in determining the individual's pension credit under the provision for the year. Since the pension credit reflecting the original benefits is taken into account in determining the individual's PAR on termination, the reflection of the reinstated benefits in the individual's provisional PSPA is appropriate.

The repeal of this paragraph, together with amendments limiting the circumstances in which the modified PSPA rules in subsection 8304(5) apply, ensures that the introduction of PAR does not present an opportunity for doubling-up on tax assistance for benefits provided in respect of stub periods.

Subclause 7(2)

ITR
8304(5)

Modified PSPA Calculation

Subsection 8304(5) contains special rules (the "modified PSPA rules") for determining an individual's provisional PSPA in certain situations.

Existing modified PSPA rules

In general terms, the modified PSPA rules apply when an individual is credited with past service benefits under a defined benefit provision of an RPP in respect of a period of pensionable service of the individual under another defined benefit provision, if the period had previously ceased to be pensionable service under the other provision or will cease to be pensionable service under the other provision in conjunction with the past service benefits becoming provided. The modified PSPA rules also apply, by virtue of subsection 8304(6), when benefits which an individual had previously forfeited or cashed-out under a defined benefit provision are subsequently reinstated under the provision.

Under the modified PSPA rules, an individual's provisional PSPA is calculated, in effect, as if the new benefits being provided in respect of the past service period were simply a modification of the benefits previously provided in respect of the past service period. Thus, the provisional PSPA measures the extent to which the individual's benefits have been upgraded. The modified PSPA rules also provide for any amounts transferred to an RRSP or other money purchase type of registered plan in respect of benefits previously provided to the individual to be included in determining the individual's provisional PSPA. This is to prevent the individual from doubling-up on tax assistance by retaining prior benefits in money purchase form.

More specifically, the modified PSPA rules apply where past service benefits become provided to an individual under a defined benefit provision of an RPP and all the conditions in paragraphs 8304(5)(a) to (d) are satisfied.

- Subparagraph 8304(5)(a)(i) requires that the period in respect of which the benefits are provided (the "past service period") not be pensionable service of the individual under the provision immediately before the past service event.
- Subparagraph 8304(5)(a)(ii) requires that the past service period be pensionable service of the individual under another defined benefit provision (the "former provision") of an RPP, whether it is pensionable service under the former provision at the time the past service event occurs or had previously been pensionable service under the former provision.
- Paragraph 8304(5)(b) requires that the individual cease to be entitled to benefits under the former provision by the time the past service event occurs or, where a certification of Revenue Canada is required in respect of the past service benefits, within 90 days after the certification is issued.
- Paragraph 8304(5)(c) requires that the past service benefits be considered to be attributable to the individual's employment with only one employer participating in the plan (the "current employer").
- Paragraph 8304(5)(d) requires that the benefits provided to the individual under the former provision in respect of the past service period (the "former benefits") not have been taken into account, pursuant to subsection 8304(5), in determining another provisional PSPA of the individual. This requirement is to ensure that, once the former benefits have served to reduce a provisional PSPA, they are not taken into account in determining any subsequent PSPAs.

When these conditions are satisfied, the individual's provisional PSPA in respect of the current employer associated with the past service event is the amount determined by the formula

$$A + B + C - D$$

Variable A in this formula is the provisional PSPA that would be determined under the basic PSPA rules in subsection 8303(3) if certain assumptions were made. Specifically, paragraphs (b) and (c) require an assumption that the former benefits had ceased to be

provided at the time the past service event occurred, and that the former benefits were attributable to the individual's employment with the current employer. These assumptions ensure that the former benefits are reflected in variable B, but not variable A, in the basic PSPA formula (i.e., they are included in the redetermined pension credits immediately before the past service event but not in the redetermined pension credits at the time of the past service event). Paragraph (d) requires an assumption that variable C in the basic PSPA formula is nil, that is, that no qualifying transfers were made to fund the past service benefits. Qualifying transfers are included, instead, in determining the value of D in the modified PSPA formula.

Variable B in the modified PSPA formula is nil except where subsection 8301(8) (special PA in year of termination rule) has applied to reduce a pension credit of the individual for a year under the former provision. Where subsection 8301(8) has applied, variable B is the difference between the amount that would have been the pension credit for the year if the subsection had not applied and the actual pension credit for the year (which, by virtue of subsection 8301(8), would not have been greater than the individual's contributions under the provision in the year). The inclusion of this amount in the modified PSPA calculation takes into account any discrepancy between the redetermined pension credit for the year of termination reflected in variable B in the basic PSPA formula (i.e., redetermined without applying subsection 8301(8)) and the pension credit actually reported for the year.

Variable C in the modified PSPA formula is the total of all amounts transferred from the former provision to an RRSP or other money purchase type of registered plan, to the extent that the amount may be considered to relate to benefits provided under the former provision in respect of service after 1989. As noted earlier, this prevents doubling-up on tax assistance by ensuring that the individual cannot retain defined benefits previously provided in respect of the past service period in money purchase form.

Variable D provides an offset, as under the basic PSPA rules, for qualifying transfers made in connection with the past service event. Generally, an individual's qualifying transfers, as defined in subsection 8303(6), is the total of all amounts transferred from an RRSP or other money purchase type of registered plan to fund the past service benefits.

Amendments to the modified PSPA rules – General

The modified PSPA rules in subsection 8304(5) are amended substantially for past service events occurring after 1997. While many of these amendments are structural in nature, a number are substantive. The structural changes involve moving most of the conditions for the modified PSPA rules to apply, and the requirements for determining variables B and C in the modified PSPA formula, from subsection 8304(5) to new subsection 8304(5.1). Also, a number of new and existing expressions used in subsection 8304(5) are defined in subsection 8304(5.1).

The substantive changes being made to the modified PSPA rules are as follows. First, the circumstances in which the modified PSPA rules apply are narrowed. Specifically, the modified PSPA rules will no longer apply when an individual is provided with past service benefits in respect of period that was pensionable service under a defined benefit provision from which the individual terminated before the past service event (unless the termination occurred before 1997). In this situation, the individual should have sufficient RRSP deduction room (taking into account any room created by PAR) and RRSP funds (taking into account any transferred portion of the termination benefit) to support the provision of the past service benefits.

For administrative reasons, the modified PSPA rules will continue to apply when an individual is credited with benefits in respect of a period of pensionable service under another defined benefit provision, if the individual's termination from the other provision occurs in conjunction with the past service benefits becoming provided. This means that the modified PSPA rules will continue to apply when an individual changes jobs and past service benefits are transferred between plans of the two employers under a reciprocal or portability arrangement. They will also apply when benefits provided to an individual under a defined benefit provision of an RPP are replaced with benefits under another defined benefit provision of an RPP maintained by the same employer(s). In these situations, the individual's PAR under the former provision will be adjusted to reflect the application of the modified PSPA rules. In effect, the PAR will be determined without taking into account the PA value of the benefits that are being replaced by the past service benefits. It is expected that, in these situations, PARs and PSPAs will often be reduced to nil.

As noted, the modified PSPA rules will also continue to apply when past service benefits are provided to an individual in respect of a period that was pensionable service under a provision from which the individual terminated before 1997 – and thus was not entitled to a PAR. This is to ensure that the individual's former benefits can be reinstated or replaced, and that this can be done without any further reduction in the individual's RRSP deduction room.

The second substantive change to the modified PSPA rules corrects a deficiency that occurs when the new benefits being provided to an individual in respect of a past service period are less generous than the benefits formerly provided in respect of the period. Specifically, under the existing rules, the full amount of the post 1989-portion of a transfer made to an RRSP or other money purchase type of plan in respect of the former benefits must be included in the provisional PSPA, even if the new benefits do not fully replace the PA value of the former benefits. The modified PSPA rules are amended so that the amount that is required to be included in the provisional PSPA in respect of such a transfer is reduced by the amount by which the PA value of the former benefits exceeds the PA value of the new benefits. This will ensure the individual can retain, in money purchase form, an amount equal to the PA value of the benefits not being replaced.

Amendments to the modified PSPA rules – Specific

The specific changes made to modified PSPA rules in subsection 8304(5) are as follows.

First, the conditions in existing paragraphs 8304(5)(a), (b) and (d) for the modified PSPA rules to apply are replaced with a single condition set out in paragraph 8304(5)(a) that the past service benefits be in respect of one or more qualifying past service periods. "Qualifying past service period" in relation to an individual and a past service event is defined, for this purpose, in new paragraph 8304(5.1)(d). In effect, a period will be a qualifying past service period if it satisfies conditions in new paragraphs 8304(5.1)(a) to (c) that are comparable to the conditions in existing paragraphs 8304(5)(a), (b) and (d). The only exception is that, if the individual had terminated from the former provision before the time of the past service event, the termination has to have occurred before 1997. (See the commentary on paragraphs 8304(5.1)(a) to (d) for further details.)

Existing paragraph 8304(5)(c), which requires that the past service benefits be attributable to one current employer, becomes paragraph 8304(5)(b).

The description of A in subsection 8304(5) is amended to replace existing references to "former benefits" with references to "former benefits in relation to the individual and the past service event". New paragraph 8304(5.1)(e) defines this to be benefits provided to the individual under a former provision in respect of a qualifying past service period. This is comparable to the definition of "former benefits" in existing paragraph 8304(5)(d).

The description of B in subsection 8304(5) is amended to refer to the total "non-vested PA amounts" in respect of the individual and the past service event. New paragraph 8304(5.1)(f) defines this expression. The definition is comparable to the existing description of B, but will have limited significance given the changes made to restrict the application of subsection 8301(8) to terminations occurring before 1997. (See the commentary on paragraph 8304(5.1)(f) for further details.)

The description of C in subsection 8304(5) is amended to refer to the total "money purchase transfers" in relation to the individual and the past service event. New paragraph 8304(5.1)(g) defines this expression. The definition is comparable to the existing description of C, except that there may be a reduction in the amount of a money purchase transfer that is to be included in the provisional PSPA if the new benefits being provided in respect of the past service period are less generous than the benefits formerly provided in respect of the period. Given the limited circumstances in which the modified PSPA rules will apply for past service events occurring after 1997, variable C will often be nil. (See the commentary on paragraph 8304(5.1)(g) for further details.)

No changes are being made to the description of D in subsection 8304(5). However, changes to the definition of qualifying transfers in subsection 8303(6) affect the determination of variable D. Specifically, subsection 8303(6) is being amended to recognize transfers between provisions of the same plan, as well as transfers from other plans. It is also being amended so that it is subject to new subsection 8303(6.1), which restricts the amounts that may be recognized as qualifying transfers to amounts transferred to fund

benefits provided in respect of post-1989 service. (See the commentary on subsections 8303(6) and (6.1) for further details.)

The application of the modified PSPA rules is illustrated in examples 6(a), (b) and (c), 9 and 11 following the commentary on subsection 8304.1(16).

ITR

8304(5.1)

Definitions for Subsection (5)

New subsection 8304(5.1) of the Regulations contains most of the conditions to be satisfied in order for the modified PSPA rules in subsection 8304(5) to apply in determining an individual's provisional PSPA. These conditions are comparable, with some exceptions, to the conditions set out in existing subsection 8304(5).

Subsection 8304(5.1) also defines a number of new and existing expressions used in subsection 8304(5).

Paragraphs 8304(5.1)(a) to (d) – "qualifying past service period"

Paragraph 8304(5.1)(d) defines the expression "qualifying past service period" in relation to an individual and a past service event. This is relevant for purposes of paragraph 8304(5)(a), which provides for an individual's provisional PSPA associated with a past service event to be determined under subsection 8304(5) if benefits are provided to the individual in respect of one or more qualifying past service periods. Paragraph 8304(5.1)(d) defines a period to be a qualifying past service period if it satisfies all the conditions in paragraphs 8304(5.1)(a) to (c).

- Subparagraph 8304(5.1)(a)(i) requires that the period in respect of which the benefits are provided (the "past service period") not be pensionable service of the individual under the provision immediately before the past service event. This is comparable to existing subparagraph 8304(5)(a)(i).
- Subparagraph 8304(5.1)(a)(ii) requires that the past service period be pensionable service of the individual under another defined benefit provision (the "former provision") of an RPP, whether it is pensionable service under the former provision at the time the past

service event occurs or had previously been pensionable service under the former provision. This is comparable to existing subparagraph 8304(5)(a)(ii).

- Paragraph 8304(5.1)(b) requires that, if the past service period was not pensionable service under the former provision immediately before the past service event, the individual had terminated from the former provision before 1997 and has not, since then, been a member in relation to the former provision. If the past service period was pensionable service under the former provision immediately before the past service event, paragraph 8304(5.1)(b) requires that the individual cease to be a member in relation to the former provision at the time of the past service event or, where a certification of Revenue Canada is required in connection with the past service benefits, within 90 days after certification. This paragraph is comparable to existing paragraph 8304(5)(b), except that this paragraph excludes periods of pensionable service under a former provision if the individual terminated from the former provision before the past service event and after 1996.
- Paragraph 8304(5.1)(c) requires that the benefits to which the individual was entitled under the former provision in respect of the past service period not have been taken into account, pursuant to subsection 8304(5), in determining another provisional PSPA of the individual. This is comparable to existing paragraph 8304(5)(d).

Paragraph 8304(5.1)(e) – "former benefits"

Where a period is a qualifying past service period in relation to an individual and a past service event, the lifetime retirement benefits provided to the individual under the former provision in respect of the period are defined, by paragraph 8304(5.1)(e), to be "former benefits" in relation to the individual and the past service event. This is relevant for purposes of the description of A in subsection 8304(5), which ensures that the benefits are reflected in determining the individual's redetermined pension credits immediately before the past service event. This definition is comparable to the definition of "former benefits" in existing paragraph 8304(5)(d).

Paragraph 8304(5.1)(f) – "non-vested PA amount"

Paragraph 8304(5.1)(f) defines a "non-vested PA amount" in respect of an individual and a past service event. This definition is relevant in determining variable B in the modified PSPA formula in subsection 8304(5), and is comparable to the existing description of B.

A non-vested PA amount is determined in respect of an individual and a past service event when past service benefits become provided in respect of a qualifying past service period and subsection 8301(8) has applied to reduce a pension credit of the individual under the former provision for a year that includes any part of the period. In this situation, the individual's non-vested PA amount is the amount determined by the formula

$$A - B$$

In this formula, variable A is the amount that would have been the individual's pension credit if subsection 8301(8) had not applied. Variable B is the actual amount of the pension credit. Given the changes limiting the application of subsection 8301(8) to terminations occurring before 1997, non-vested PA amounts will be infrequent.

Paragraph 8304(5.1)(g) – "money purchase transfer"

Paragraph 8304(5.1)(g) defines a "money purchase transfer" in relation to an individual and a past service event. This definition is relevant in determining variable C in the modified PSPA formula in subsection 8304(5). The definition is comparable to the existing description of C, but with two exceptions. First, it provides relief where the past service benefits provided in respect of a qualifying past service period are less generous than the former benefits provided in respect of the past service period. Second, it incorporates amounts that are to be paid under the former provision after the past service event (as dealt with in existing paragraph 8304(8)(a)).

A money purchase transfer is determined in relation to an individual and a past service event when past service benefits become provided to the individual in respect of a qualifying past service period and an amount has been transferred (the "money purchase transfer") on behalf of the individual from the former provision to an RRSP or other money purchase type of registered plan. In this situation, the

individual's money purchase transfer is the amount determined by the formula

$$A - B$$

In this formula, variable A is the portion of the money purchase transfer that relates to benefits provided under the former provision in respect of the qualifying past service period, but excluding benefits in respect of periods before 1990. It is equivalent to the amount that would be determined under the existing description of C in subsection 8304(5).

Variable B in the formula is relevant only where the PA value of the new benefits provided in respect of the qualifying past service period is less than the PA value of the benefits formerly provided in respect of the period. Specifically, it is determined as the amount by which variable B in the basic PSPA formula exceeds variable A in the basic PSPA formula – i.e., the excess of the redetermined pension credits immediately before the past service event over the redetermined pension credits at the time of the past service event. (For this purpose, any benefits provided in respect of a period other than the qualifying past service period are disregarded.) The effect of this offset in the amount of the money purchase transfer that is to be included in the individual's provisional PSPA is to allow the individual to retain in money purchase form an amount equal to the PA value of the former benefits that are not being replaced by the new benefits.

A money purchase transfer in relation to an individual and a past service event is also determined where, at the time of the past service event, an amount that is attributable to benefits provided to the individual in respect of a qualifying past service period remains to be paid under the former provision. Given the requirements for the period to be a qualifying past service period, this would occur only where a final distribution from the former provision in respect of the individual is being held pending a PSPA certification. In this situation, the amount that remains to be paid is included in determining variable A under this paragraph, except to the extent that it relates to benefits provided in respect of periods before 1990 or is to be transferred to fund the past service benefits or paid directly to the individual. This requirement is comparable to existing paragraph

8304(8)(a), except that that paragraph does not exempt amounts that are to be paid directly to the individual.

Money purchase transfers will not normally be relevant in determining a provisional PSPA associated with past service benefits provided to an individual who is transferring from one defined benefit provision of an RPP to another defined benefit provision of an RPP. This is because it is unusual, in such circumstances, for amounts to be transferred from the former provision to an RRSP or other money purchase vehicle on behalf of an individual.

The determination of a money purchase transfer is illustrated in example 11 following the commentary on subsection 8304.1(16).

ITR
8304(6)

Reinstatement of Pre-1997 Benefits

Subsection 8304(6) of the Regulations provides rules that apply where an individual's benefits under a defined benefit provision are forfeited or cashed-out and then later reinstated under the same provision. In effect, it allows for the provisional PSPA associated with the reinstatement to be determined according to the modified PSPA rules in subsection 8304(5) and, for this purpose, treats the reinstated benefits and the former benefits as having been provided under two separate defined benefit provisions.

Subsection 8304(6) is amended to limit the application of this rule to reinstatements of benefits that were forfeited or cashed-out before 1997 (i.e., before the introduction of PAR). Specifically, amended subsection 8304(6) applies where past service benefits are provided under a defined benefit provision of an RPP in respect of a period that

- had been pensionable service of the individual under the provision but, as a consequence of the individual having terminated from the provision before 1997, ceased to be pensionable service of the individual under the provision, and

- has not been pensionable service of the individual under the provision, or any other defined benefit provision, after 1996 and before the past service event.

Amended subsection 8304(6) provides that, in these circumstances, the provisional PSPA is to be determined as if the benefits previously provided to the individual under the provision had been provided under another defined benefit provision of an RPP in relation to which the individual has not been a member at any time after 1996. This ensures that the period can be considered to be a "qualifying past service period" (as defined in paragraph 8304(5.1)(d)), which is necessary for the modified PSPA rules to apply. It also ensures that benefits previously provided in respect of the period can be considered to be "former benefits" (as defined in paragraph 8304(5.1)(e)). This allows the individual's redetermined pension credits for the former benefits to be taken into account in determining the provisional PSPA.

This amendment applies in determining provisional PSPAs that are associated with past service events occurring after 1997.

Subclause 7(3)

ITR

8304(7)(b)

Two or More Employers

Subsection 8304(7) of the Regulations applies where past service benefits provided to an individual under a defined benefit provision of an RPP are attributable to the individual's employment with two or more employers who participate in the RPP and the modified PSPA calculation set out in subsection 8304(5) would apply if it were not for the "single employer" condition in existing paragraph 8304(5)(c). In these circumstances, subsection 8304(7) provides that each provisional PSPA of the individual associated with the past service benefits is to be determined according to the modified PSPA rules, subject to certain rules.

Paragraph 8304(7)(b) is amended to replace the reference to paragraph 8304(5)(c) with a reference to paragraph 8304(5)(b).

This amendment is consequential on the re-numbering of subsection 8304(5).

Subclause 7(4)

ITR
8304(8)

Additional Rules re Calculation of PSPA

Subsection 8304(8) of the Regulations contains four additional rules that apply for the purposes of the calculation, under subsection 8304(5), of an individual's provisional PSPA associated with a past service event.

- Paragraph 8304(8)(a) deems an amount that remains to be paid under the former provision at the time of the past service event to have been transferred to an RRSP. This ensures that the amount is included in determining variable C in the modified PSPA formula.
- Where an amount, in lieu of benefits provided to the individual under the former provision, is credited to the individual under a money purchase provision of the same plan, paragraph 8304(8)(b) deems the amount to have been transferred on behalf of the individual to the money purchase provision. This ensures that the amount is included in determining variable C in the modified PSPA formula.
- Paragraph 8304(8)(c) provides that variable B in the modified PSPA formula is to be determined on the assumption that no benefits will accrue to the individual under the former provision after the past service event. This is to ensure that, if the past service event occurs in the same year as the individual's termination from the former provision, the applicability of subsection 8301(8) (special PA in year of termination rule) can be ascertained.
- Paragraph 8304(8)(d) provides that, where past service benefits are provided to the individual in respect of two or more separate periods, the periods are considered to be a single period. This rule is required because existing subsection 8304(5) contemplates past service benefits in respect of a single period.

Subsection 8304(8) of the Regulations is repealed with respect to the determination of provisional PSPAs for past service events occurring after 1997. This repeal is consequential on other amendments to Part LXXXIII of the Regulations, as noted below.

- The definition of "money purchase transfer" in new paragraph 8304(5.1)(g), which is relevant in determining variable C in the modified PSPA formula, contemplates amounts remaining to be paid under the former provision at the time of the past service event. This makes paragraph 8304(8)(a) redundant.
- New subsection 8300(9) provides that, when property held under one benefit provision of a pension plan is made available to pay benefits under another benefit provision of the same plan, it is deemed to have been transferred. This makes paragraph 8304(8)(b) redundant.
- The "special PA in year of termination rule" in subsection 8301(8) is amended to apply only to terminations that occurred before 1997. Thus, for past service events occurring after 1997, paragraph 8304(8)(c) is nugatory.
- Amended subsection 8304(5) contemplates past service benefits being provided in respect of two or more separate periods. This makes paragraph 8304(8)(d) redundant.

Clause 8

ITR

8304.1

Pension Adjustment Reversal

New section 8304.1 of the Regulations provides rules for determining pension adjustment reversals (PARs). PAR is determined when an individual terminates from a DPSP, or from a benefit provision of an RPP, after 1996 and before retirement benefits have commenced. PAR is a measure of the extent to which the individual's RRSP deduction room has been reduced in respect of RPP or DPSP benefits that will not be paid to the individual.

In general, an individual's PAR under a DPSP or money purchase provision of an RPP is the total of all amounts included in the individual's pension credits under the plan or provision since 1990 but not vested in the individual. An individual's PAR under a defined benefit provision is the total of the individual's pension credits and PSPAs under the provision since 1990, *minus* any lump sum amounts paid to the individual, or transferred to an RRSP or other money purchase type of registered plan, in respect of the individual's post-1989 benefits under the provision.

As noted above, a PAR is not determined until an individual terminates from a DPSP or benefit provision of an RPP, which ordinarily means when the individual has ceased to have any rights to benefits under the DPSP or benefit provision. Normally, this would be when the individual has received any lump sum payments to which the individual is entitled or, if no such amount is payable, when the individual terminates employment. PARs for terminations in 1997 will be added to the individual's RRSP deduction room for 1998. PARs for terminations in 1998 and subsequent years will be added to the individual's RRSP deduction room for the year of termination.

DPSP trustees and RPP administrators will be required to calculate and report PARs to Revenue Canada and to the terminating individual. The first information returns reporting PARs will not have to be filed with Revenue Canada until December 31, 1998 (or 60 days after the Regulations are published in the *Canada Gazette*, if later). Thereafter, PARs will normally have to be reported on a quarterly basis.

Normally, RPP administrators and DPSP trustees will have access to the historical records that are needed to calculate PAR. However, there may be some situations, such as a purchase and sale, where the records relating to pre-1997 periods have been destroyed or are available only with considerable difficulty. In these situations, it is expected that Revenue Canada will accept a reasonable reconstruction of the missing information.

PARs will not be determined for individuals terminating from a defined benefit provision of a specified multi-employer plan (SMEP). This exception is consistent with other special rules applying to SMEPs. In particular, pension credits are determined in respect of

defined benefit SMEPs as if they were money purchase plans. However, when a member forfeits benefits on termination from a defined benefit SMEP, the plan funds supporting those benefits can be used to augment the benefits of other plan members without increasing the pension credits of those members. It would be inappropriate, therefore, to allow the forfeited amounts also to give rise (through a PAR) to additional RRSP deduction room for the terminating member. The exception for defined benefit SMEPs also reflects the practical difficulties in determining PARs in plans where active membership may often be episodic.

ITR

8304.1(1)

Total Pension Adjustment Reversal

Subsection 8304.1(1) of the Regulations defines, for the purposes of subsection 248(1) of the Act, an individual's "total pension adjustment reversal" for a year as the sum of the individual's PARs determined in connection with the individual's termination from DPSPs and benefit provisions of RPPs in the year.

An individual's total pension adjustment reversal for a year is taken into account in determining, under subsection 146(1) of the Act, the individual's "RRSP deduction limit" for the year and the individual's "unused RRSP deduction room" at the end of the year. It is also taken into account, from the beginning of the year, in determining the amount of undeducted RRSP contributions made by the individual to which the 1% penalty tax under subsection 204.2(1.1) of the Act applies.

The rules for determining a PAR in connection with an individual's termination from a DPSP or benefit provision of an RPP are set out in new subsections 8304.1(3) to (5).

ITR

8304.1(2)

Termination in 1997

Where an individual's termination from a DPSP or benefit provision of an RPP occurred in 1997, new subsection 8304.1(2) deems the

termination to have occurred in 1998 for the purpose of new subsection 8304.1(1). Consequently, the PAR determined in connection with the termination is included in determining the individual's total pension adjustment reversal for 1998.

ITR

8304.1(3)

PAR – Deferred Profit Sharing Plan

New subsection 8304.1(3) of the Regulations provides rules for determining PAR when an individual terminates from a DPSP.

In accordance with new subsection 8300(10), an individual is considered to terminate from a DPSP when he or she has ceased to be a member of the DPSP. By virtue of the new definition of "member" in subsection 8300(1), this would be when the individual has completely ceased to have any rights to benefits under the plan. For an individual who has satisfied the vesting requirements under the plan, this would normally be when the final payment in respect of the individual is made from the plan. For an individual who is not vested, it would normally be when the individual terminates employment.

If the conditions in new subsection 8304.1(14) are not satisfied with respect to an individual's termination from a DPSP, the individual's PAR in connection with the termination is defined by subsection 8304.1(3) to be nil. The conditions in subsection 8304.1(14) are that the termination has occurred after 1996, the termination is not because of the individual's death, instalment payments have not been made from the plan in respect of the individual and no annuity has been purchased by the plan for the individual.

If the conditions in subsection 8304.1(14) are satisfied with respect to an individual's termination from a DPSP, the individual's PAR is defined to be the total of all amounts included in a pension credit of the individual under the plan but to which the individual has ceased to have any rights. In other words, the amounts included in PAR are those employer contributions made in respect of the individual, and those amounts forfeited by other plan members and reallocated to the individual, that are subsequently forfeited by the individual. This

means that an individual will have a PAR under a DPSP only when the individual is not fully vested on termination. (Pursuant to new subsection 8304.1(13), any amount forfeited during a prior period of membership is to be disregarded in determining the individual's PAR.)

It should be noted that, for 1997 and subsequent years, an amount allocated to, and subsequently forfeited by, an individual under a DPSP in the year in which the individual terminates from the plan is included in the individual's pension credit for the year. (See the commentary on amended subsection 8301(3).) Thus, the amount is also included in the individual's PAR. Since the PAR is added to RRSP deduction room for the year of termination and the pension credit is subtracted from RRSP deduction room only for the year following termination, the RRSP deduction room associated with the forfeited amount is, in effect, restored before it is lost.

If, on marriage breakdown, an individual's former spouse acquires rights to an amount allocated to the individual under a DPSP, the amount is disregarded in determining the individual's PAR in connection with any subsequent termination from the plan. Thus, there is no restoration of the associated RRSP deduction room.

It should be noted that the PAR rules do not provide for a restoration of RRSP deduction room to compensate a terminating DPSP member for a negative rate of return.

ITR
8304.1(4)

PAR – Money Purchase Provision

New subsection 8304.1(4) of the Regulations provides rules for determining PAR when an individual terminates from a money purchase provision of an RPP.

In accordance with new subsection 8300(10), an individual is considered to terminate from a money purchase provision when he or she has ceased to be a member in relation to the provision. By virtue of the new definition of "member" in subsection 8300(1), this would be when the individual has completely ceased to have any rights to benefits under the provision. Normally, this would be when the final

payment in respect of the individual is made under the provision or, if no such amount is payable (i.e., the individual made no contributions and has not satisfied the vesting requirements), when employment is terminated.

If the conditions in new subsection 8304.1(15) are not satisfied with respect to an individual's termination from a money purchase provision, the individual's PAR in connection with the termination is defined by subsection 8304.1(4) to be nil. The conditions in subsection 8304.1(15) are that the termination has occurred after 1996, the termination is not because of the individual's death, retirement benefits (as defined in subsection 8500(1) of the Regulations) have not been paid under the provision in respect of the individual, and no annuity has been purchased for the individual in full or partial satisfaction of benefits accrued to the individual under the provision.

If the conditions in subsection 8304.1(15) are satisfied with respect to an individual's termination from a money purchase provision, the individual's PAR is defined to be the total of all amounts included in a pension credit of the individual under the provision but to which the individual has ceased to have any rights. In other words, the amounts included in PAR are those employer contributions and surplus amounts allocated to the individual, and those amounts forfeited by other plan members and reallocated to the individual, that are subsequently forfeited by the individual. This means that an individual will have a PAR under a money purchase provision only when the individual is not fully vested on termination. (Pursuant to new subsection 8304.1(13), any amount forfeited during a prior period of membership is to be disregarded in determining the individual's PAR.)

It should be noted that, for 1997 and subsequent years, an amount allocated to, and subsequently forfeited by, an individual under a money purchase provision in the year in which the individual terminates from the provision is included in the individual's pension credit for the year. (See the commentary on amended subsection 8301(8).) Thus, the amount is also included in the individual's PAR. Since the PAR is added to RRSP deduction room for the year of termination and the pension credit is subtracted from RRSP deduction room only for the year following termination, the

RRSP deduction room associated with the forfeited amount is, in effect, restored before it is lost.

If, on marriage breakdown, an individual's former spouse acquires rights to an amount allocated to the individual under a money purchase provision, the amount is disregarded in determining the individual's PAR in connection with any subsequent termination from the provision. Thus, there is no restoration of the associated RRSP deduction room.

It should be noted that the PAR rules do not provide for a restoration of RRSP deduction room to compensate a terminating money purchase member for a negative rate of return.

Example 2 following the commentary on subsection 8304.1(16) illustrates the calculation of PAR under a money purchase provision of an RPP.

ITR
8304.1(5)

PAR – Defined Benefit Provision

New subsection 8304.1(5) of the Regulations provides rules for determining PAR when an individual terminates from a defined benefit provision of an RPP.

In accordance with new subsection 8300(10), an individual is considered to terminate from a defined benefit provision when he or she has ceased to be a member in relation to the provision. By virtue of the new definition of "member" in subsection 8300(1), this would be when the individual has completely ceased to have any rights to benefits under the provision. Normally, this would be when the final payment in respect of the individual is made under the provision or, if the provision is non-contributory and the individual has not satisfied the vesting requirements, when employment is terminated. (Refer to the commentary on subsections 8300(10) to (12) for details on situations in which an individual's termination from a defined benefit provision of an RPP, for PAR purposes, may be affected by the individual's participation in another benefit provision of an RPP or in a DPSP maintained by the same employer(s).)

If the conditions in new subsection 8304.1(15) are not satisfied with respect to an individual's termination from a defined benefit provision, the individual's PAR in connection with the termination is defined by subsection 8304.1(5) to be nil. These conditions, which also apply to terminations from a money purchase provision, are described in the commentary on subsection 8304.1(4).

If the conditions in subsection 8304.1(15) are satisfied with respect to an individual's termination from a defined benefit provision, the individual's PAR is defined to be the amount determined by the formula

$$A + B - C - D - E$$

where

A is the total of the individual's pension credits under the provision since 1990, subject to certain adjustments;

B is the total of the individual's grossed-up provisional PSPAs associated with past service benefits provided under the provision;

C is the total amount of specified distributions made from the provision in respect of the individual on or before the individual's termination from the provision;

D is the total of all PA transfer amounts determined in relation to the individual's termination from the provision; and

E is the total of all excess money purchase offsets determined in relation to the individual and the termination.

These variables are described in more detail below. It should be noted that, in most cases, only variables A (*pension credits*) and C (*specified distributions*) will be relevant in determining an individual's PAR under a defined benefit provision of an RPP. However, this will not be the case if benefits have been provided to the individual under the provision on a past service basis, if the individual is transferring to another defined benefit provision of an RPP, or if benefits under the provision are offset by benefits under a money purchase provision of an RPP or under a DPSP. It will also not be the case for terminations occurring in 1997 if, before the end

of the year, the individual's benefits are reinstated under the provision or the individual is provided with benefits another defined benefit provision of an RPP in respect of the individual's prior pensionable service.

Examples 3 to 10(b), 12 and 13 following the commentary on subsection 8304.1(16) illustrate the calculation of defined benefit PARs.

Variable A

As noted, certain adjustments to the pension credits included in determining variable A may be required. First, the description of A requires that, if the individual's pension credits under the provision for a particular year exceeded the RRSP dollar limit for the following year, the excess amount be disregarded. For example, if the individual's pension credit for 1995 was \$14,500, only \$13,500 – the RRSP dollar limit for 1996 – would be included in determining variable A. This is to ensure that PAR does not provide high-income earners who terminate from defined benefit RPPs with more RRSP deduction room than is available to individuals with comparable earnings who have never participated in RPPs. (See example 8 following the commentary on subsection 8304.1(16) for a further illustration of the application of this requirement.)

Second, any pension credit (or portion thereof) that is attributable to benefits provided under the provision during a period of prior or subsequent membership is to be disregarded in determining variable A. This is provided for in new-subsection 8304.1(13) and in the description of A and new paragraph 8304.1(6)(a), respectively. Finally, any pension credit under the provision for a year in which the plan was a specified multi-employer plan (SMEP) is also to be disregarded in determining variable A. This is provided for in new paragraph 8304.1(6)(b), which deems the pension credit to be nil.

It is important to note that benefits accruing to an individual under a defined benefit provision in the year of termination are reflected in the individual's pension credit for the year. (By virtue of amended subsection 8301(8), this is the case for 1997 and subsequent years even if the individual is not vested on termination.) Even though the pension credit will not reduce RRSP deduction room until the following year, the benefits are nevertheless reflected in determining

the individual's PAR and thus may restore RRSP deduction room before it is lost.

Variable B

As noted, variable B adds to the individual's PAR the total of the grossed-up provisional PSPA amounts associated with any past service benefits provided to the individual under the provision.

The rules for determining grossed-up provisional PSPA amounts are set out in new subsection 8304.1(7). Generally speaking, the grossed-up amount of a provisional PSPA is the amount that would be determined to be the provisional PSPA if certain amounts – such as qualifying transfers and redetermined pension credits attributable to defined benefits provided to the individual under an RPP of a previous employer – were disregarded. This adjustment, which recognizes that in many instances an individual's actual PSPA may not have fully reflected the PA value of the past service benefits being provided, ensures that PAR does not underestimate the individual's loss of RRSP deduction room on termination. (See the commentary on subsection 8304.1(7) for further details on grossed-up PSPAs. See examples 5(a) to (d) following the commentary on subsection 8304.1(16) for an illustration of the calculation and application of grossed-up PSPA amounts.)

It should be noted that any provisional PSPA associated with a past service event occurring during a prior or subsequent period of membership under the provision is to be disregarded in determining variable B. This is provided for in new subsection 8304.1(13) and in the description of B, respectively. Also, any provisional PSPA arising from the fact that the individual made a past service contribution to the plan at a time when the plan was a SMEP is to be disregarded in determining variable B. This is provided for in the description of B, which excludes provisional PSPAs determined in accordance with subsection 8303(8).

Variable C

Variable C subtracts from the individual's PAR the total of all specified distributions made in respect of the individual under the provision on or before termination.

The rules for determining specified distributions are set out in new subsection 8304.1(8). In general terms, a specified distribution is any amount paid to the individual, or transferred to an RRSP or other money purchase type of registered plan, in respect of the individual's post-1989 benefits under the provision. Pursuant to new subsection 8304.1(13), a specified distribution made in connection with a prior period of membership under the provision is to be disregarded in determining variable C.

With certain exceptions as noted in new subsection 8304.1(16), an amount paid under the defined benefit provision to the individual's former spouse in connection with rights to benefits acquired by the spouse as a consequence of a breakdown of their marriage is considered to be a specified distribution in respect of the individual and, thus, reduces the individual's PAR. (For further details, see the commentary on that subsection. For an illustration of the calculation of PAR in marriage breakdown situations, see examples 12(a) and (b) following the commentary on new subsection 8304.1(16).)

It should be noted that, pursuant to new paragraph 8300(12)(c), the individual's PAR under the defined benefit provision may also be reduced by all or part of a specified distribution made in respect of the individual under another defined benefit provision. This would be the case where benefits provided to the individual under one of the provisions are supplemental to, or otherwise dependent on, benefits provided to the individual under the other provision. (For further details, see the commentary on that paragraph.)

Variable D

Variable D subtracts from the individual's PAR the total of all PA transfer amounts determined in relation to the individual's termination from the provision.

New subsections 8304.1(10) and (11) set out rules for determining PA transfer amounts. A PA transfer amount will normally arise in connection with an individual's termination from a defined benefit provision (the "terminating provision") if

- the individual is changing jobs and transferring past service benefits under a reciprocal or portability arrangement,

- the individual's benefits under the terminating provision are being replaced with benefits under another defined benefit provision of an RPP maintained by the same employer(s), or
- the individual terminates from the provision in 1997 and, later that year, the individual's benefits are reinstated under the same provision or replaced with benefits under another defined benefit provision of an RPP.

In these situations, the provisional PSPA associated with the past service benefits is determined in accordance with the modified PSPA rules in subsection 8304(5). This means that the PSPA is offset by the PA value of the benefits previously provided to the individual under the terminating provision, resulting in either a nil PSPA or a significantly reduced PSPA. In general terms, the PA transfer amount is the amount by which the provisional PSPA is reduced on account of the offset. In other words, the reduction in the individual's provisional PSPA for the offset results in a corresponding reduction in the individual's PAR.

The reduction in PAR for the PA transfer amount, in effect, provides for the individual's PAR to be determined without taking into account the PA value of the benefits being replaced. This will often result in a nil PAR, which is consistent with the fact that the individual's benefits under the terminating provision have not been lost, but have simply been replaced. In some instances, a residual PAR may arise. This would be the case, for example, if the new benefit accrual rate is less generous than the former rate or if the benefits provided under the new provision cover only a portion of the individual's prior pensionable service.

Examples 6(a) to (c), 9 and 13 following the commentary on subsection 8304.1(16) illustrate the calculation and application of PA transfer amounts in determining PARs. Examples 6(b) and (c), in particular, illustrate residual PAR situations. For more details on the PA transfer amount, see the commentary on subsections 8304.1(10) and (11).

Variable E

Variable E subtracts from the individual's PAR the total of all excess money purchase offsets determined in relation to the individual and the termination in accordance with new subsection 8304.1(12).

This adjustment is relevant only where the individual's defined benefits are offset by benefits payable under a DPSP or money purchase provision of an RPP. In general, the excess money purchase offset is the amount of earnings attributable to post-1989 contributions made by or on behalf of the individual under the DPSP or money purchase provision. This adjustment reflects the extent to which benefits promised to the individual under the defined benefit provision are, in effect, supported by positive investment returns under the offset provision. Since these benefits are not actually lost, it would be inappropriate for them to give rise to a PAR. For further details, see the commentary on subsection 8304.1(12).

Examples 10(a) and (b) following the commentary on subsection 8304.1(16) illustrate the calculation and application of an excess money purchase offset.

ITR**8304.1(6)****Defined Benefit Pension Credits**

New subsection 8304.1(6) of the Regulations provides two rules that apply in determining an individual's total pension credits under a defined benefit provision of an RPP for the purpose of the description of A in subsection 8304.1(5).

First, paragraph 8304.1(6)(a) requires that the individual's pension credits for the year of termination be calculated without regard to benefits provided after termination. Thus, if the individual were to rejoin the plan in the year of termination, the portion of the individual's pension credit for the year in respect of benefits provided after rejoining would not be included in determining variable A.

Second, paragraph 8304.1(6)(b) deems pension credits under the provision for years in which the plan was a SMEP to be nil. The effect of this deeming rule (together with the exclusion of PSPAs

determined under subsection 8303(8), and amounts paid out of a plan in respect of benefits provided when it was a SMEP, from variables B and C in subsection 8304.1(5)) is that defined benefit PARs for a plan that has always been a SMEP will be nil. In the more unusual situation of a plan that has been a SMEP for only some of the time, defined benefit PARs will be determined without regard to anything that happened while the plan was a SMEP.

ITR

8304.1(7)

Grossed-Up PSPA Amount

New subsection 8304.1(7) of the Regulations defines the expression "grossed-up amount of an individual's provisional PSPA" with respect to an employer that is associated with a past service event. The expression is defined primarily for purposes of the description of B in subsection 8304.1(5), which adds the grossed-up provisional PSPA amount to the individual's PAR on termination from the provision under which the past service benefits are provided. However, the expression is also defined for purposes of the description of B in subsection 8303(7.1), which defines "excess money purchase transfer" for purposes of the basic PSPA rules in subsection 8303(3).

The grossed-up amount of an individual's provisional PSPA represents the PA value of the past service benefits provided to the individual. In general terms, it is the provisional PSPA that would be determined if there were no reduction for amounts transferred to fund the past service benefits, no offset for redetermined pension credits attributable to former benefits being replaced or reinstated as a consequence of the past service event, and no increase for amounts transferred to an RRSP or other money purchase vehicle in respect of former benefits. The fact that there is no offset for redetermined pension credits means that the grossed-up PSPA will measure the full PA value of the past service benefits being provided, rather than simply measuring the extent to which the benefits provided in respect of the past service period are being upgraded.

More specifically, subsection 8304.1(7) defines the grossed-up amount of a provisional PSPA as the amount that would be the provisional PSPA (whether determined under the basic PSPA rules in

subsection 8303(3) or under the modified PSPA rules in subsection 8304(5)) if

- the values of C (*qualifying transfers*) and D (*excess money purchase transfers*) in subsection 8303(3) were nil;
- the values of C (*money purchase transfers*) and D (*qualifying transfers*) in subsection 8304(5) were nil; and
- the description of A in subsection 8304(5) were read so as to require an assumption that the individual's former benefits (i.e., the benefits being replaced or reinstated by the past service benefits) had ceased to be provided immediately before the past service event (rather than at the time of the past service event) – in other words, it is to be assumed that the individual had no entitlement to the former benefits immediately before the past service event, which means that the redetermined pension credits attributable to those benefits are not taken into account in determining variable B in the basic PSPA formula.

The grossed-up amount of an individual's provisional PSPA will often be greater than the actual amount of the provisional PSPA. This would normally be the case, for example, if the individual made a qualifying transfer or if the provisional PSPA was determined under the modified PSPA rules. In certain circumstances (i.e., where an amount has been transferred to an RRSP or other money purchase vehicle in respect of benefits previously provided to the individual in respect of the past service period), the grossed-up provisional PSPA amount could be less than the actual amount.

Examples 5(a) to (d) following the commentary on subsection 8304.1(16) illustrate the calculation and application of grossed-up PSPA amounts.

ITR

8304.1(8)

Specified Distribution

New subsection 8304.1(8) of the Regulations defines, for the purposes of the description of C in the formula in subsection 8304.1(5), a specified distribution made in respect of an individual

under a defined benefit provision of an RPP. Specified distributions are applied to reduce the PAR determined in connection with the individual's termination from the defined benefit provision.

A specified distribution made in respect of an individual and a defined benefit provision of an RPP means any amount paid under the provision with respect to the individual, with certain exceptions as follows. First, a specified distribution does not include any portion of an amount paid that is attributable to benefits

- in respect of service before 1990 (since 1990 was the first year for which PAs were reported, it would be inappropriate to reduce PAR by amounts paid in respect of pre-1990 benefits);
- in respect of a period when the plan was a SMEP (which is consistent with the fact that defined benefit pension credits and PSPAs relating to periods when the plan was a SMEP are not included in PAR); or
- in respect of a past service period in which the individual was employed outside Canada, where the past service benefits were excluded in calculating the individual's provisional PSPAs by virtue of subsection 8303(10).

Second, a specified distribution does not include a payment that is transferred to fund benefits provided to the individual under another defined benefit provision of the plan or of another RPP (other than a SMEP). In this situation, the individual's PAR is reduced instead by the PA transfer amount determined in connection with the past service benefits. (See the commentary on the description of D in subsection 8304.1(5) for further details.) Third, a specified distribution does not include a payment that is in respect of an actuarial surplus under the provision. Nor, does it include a payment that is a return of the individual's contributions (with interest), if the return is made pursuant to a plan amendment that reduces or eliminates future member contributions under the provision without reducing benefits.

As noted above, where a lump sum payment relates partly to pensionable service before 1990 and partly to service after 1989, only the portion of the payment which may reasonably be considered to relate to service after 1989 is deducted in determining PAR. To make

this determination, a simple proration of the payment – based on the post-1989 proportion of the total period of pensionable service – will normally be acceptable. However, where the rate of benefit accrual under a defined benefit plan has not been uniform, or reasonably uniform, for all years of service, this should be recognized in determining the post-1989 portion of the payment. For example, a simple proration would not be reasonable in a career-average earnings plan in which there have been no adjustments made to the earnings base. Where the proration involves benefits provided pursuant to the application of the "50% employer funding" rule imposed under pension benefits legislation, a simple proration as described above or any other reasonable method will normally be acceptable. (See example 4 following the commentary on subsection 8304.1(16).)

It should be noted that, under the Regulations, a payment made to or on behalf of the former spouse of a pension plan member in respect of rights acquired by the spouse as a consequence of the breakdown of their marriage is considered, nevertheless, to be a payment made with respect to the member. Thus, to the extent that such a payment would have been a specified distribution if it had actually been paid to the member, it is considered to be a specified distribution made in respect of the member and, consequently, reduces the member's PAR on termination. However, if the amount is paid (i) after the member's termination from the provision, or (ii) before the termination as a periodic payment (i.e., a retirement benefit) or as a lump sum payment in partial satisfaction of the spouse's rights under the provision, new subsection 8304.1(16) deems the amount not to be a specified distribution with respect to the member. Thus, it is disregarded in determining the member's PAR. Instead, subsection 8304.1(16) provides for the member's PAR to be reduced by the present value (determined at termination) of benefits given up by the member on marriage breakdown. (See examples 12(a) and (b) following the commentary on subsection 8304.1(16) for an illustration of the determination of PAR in marriage breakdown situations.)

ITR

8304.1(9)

Property Made Available

New subsection 8304.1(9) contains an interpretive rule applicable to subsection 8304.1(8). It provides that, where an amount held in

connection with a defined benefit provision of an RPP is made available to provide benefits under another benefit provision of the plan (for example, on plan conversion) or of another plan, the amount is considered to have been paid under the defined benefit provision. This ensures that, to the extent that the amount would have been a specified distribution if it had actually been paid, it is considered to be a specified distribution and, thus, will reduce the individual's PAR.

ITR
8304.1(10)

PA Transfer Amount

New subsection 8304.1(10) of the Regulations defines "PA transfer amount" in relation to an individual's termination from a defined benefit provision of an RPP. The expression is defined primarily for purposes of the description of D in subsection 8304.1(5), which subtracts the PA transfer amount from the PAR determined in connection with the individual's termination from the provision. The expression is also relevant for purposes of the reporting requirements imposed by subsection 8406(4).

A PA transfer amount will normally arise in connection with an individual's termination after 1996 from a defined benefit provision (the "terminating provision") if

- the individual is changing jobs and, under a reciprocal or portability arrangement, is provided with benefits under a defined benefit provision of an RPP maintained by the new employer in respect of service that was pensionable service under the terminating provision, or
- the individual's benefits under the terminating provision are being replaced with benefits under another defined benefit provision of an RPP maintained by the same employer(s).

In these situations, the provisional PSPA associated with the past service benefits is determined in accordance with the modified PSPA rules in subsection 8304(5). This means that the PA value of benefits previously provided to the individual under the terminating provision is applied to offset the PSPA, resulting in either a nil PSPA or a

significantly reduced PSPA. Given that the PA value of the previously-provided benefits serves to reduce the PSPA, it would be inappropriate to allow it also to be taken into account in determining the individual's PAR. The effect of the PA transfer amount is to exclude the PA value of those benefits from the individual's PAR, which is consistent with the fact that those benefits have not been lost, they have simply been replaced.

More specifically, subsection 8304.1(10) provides for a PA transfer amount to be determined in relation to an individual's termination from a defined benefit provision of an RPP after 1996 if

- on or before the termination, benefits become provided to the individual under another defined benefit provision of an RPP in respect of a period of pensionable service under the terminating provision, and
- benefits previously provided to the individual under the terminating provision in respect of the period are taken into account, as former benefits, in determining a provisional PSPA under subsection 8304(5).

The PA transfer amount is defined as the lesser of variable A in the basic PSPA formula (which is the PA value of the past service benefits provided under the new provision) and variable B in the basic PSPA formula (which is the PA value of benefits previously provided under the terminating provision).

Examples 6(a) to (c) and 9 following the commentary on subsection 8304.1(16) illustrate PAR calculations involving PA transfer amounts.

ITR
8304.1(11)

Special 1997 PA Transfer Amount

New subsection 8304.1(11) of the Regulations provides a transitional rule for determining a special PA transfer amount in relation to an individual's termination from a defined benefit provision of an RPP in 1997. It applies only where, as a consequence of a past service event occurring after the termination but before the end of 1997, the individual's benefits are either reinstated or replaced with benefits

under another defined benefit provision of an RPP and the benefits previously provided to the individual are taken into account, as former benefits, in determining a provisional PSPA of the individual under subsection 8304(5).

The introduction of this special PA transfer amount is consequential on the one-year delay in implementing the changes to the PSPA rules to reflect PAR. In particular, while the modified PSPA rules in subsection 8304(5) will apply to the determination of the provisional PSPA in this situation (since the changes to the PSPA rules apply only for past service events occurring after 1997), a PAR is also determined in connection with the individual's termination (since the PAR rules apply to terminations occurring after 1996). The rationale for determining a PA transfer amount in this situation is identical to the rationale for determining a PA transfer amount under subsection 8304.1(10), as is the calculation of the PA transfer amount. Refer to the commentary on that subsection for further details.

Example 13 following the commentary on subsection 8304.1(16) illustrates a situation in which the special 1997 PA transfer amount applies in determining PAR.

ITR
8304.1(12)

Excess Money Purchase Offset

New subsection 8304.1(12) of the Regulations defines, for purposes of the description of E in paragraph 8304.1(5)(a), an excess money purchase offset in relation to an individual's termination from a defined benefit provision of an RPP.

An excess money purchase offset is determined when an individual's benefits under a defined benefit provision are offset by benefits payable under a DPSP or money purchase provision of an RPP. A DPSP or money purchase provision is considered to be an "offset provision" in relation to a defined benefit provision if, by virtue of paragraph 8302(2)(c), the individual's pension credits under the plan or provision have been taken into account in determining the individual's pension credits under the defined benefit provision. The excess money purchase offset is applied to reduce the PAR

determined in connection with the individual's termination from the defined benefit provision.

In general terms, the excess money purchase offset is the amount of investment income earned by the assets held in the offset provision that may be attributed to contributions, surplus and forfeited amounts allocated to the individual under the offset provision after 1989. More specifically, it is determined as the total of all amounts paid out of the offset provision in respect of the individual (except to the extent that the amount is in respect of amounts allocated to the individual before 1990 or earnings related to such amounts) *minus* the individual's total pension credits under the offset provision. The adjustment to the individual's PAR for the excess money purchase offset reflects the extent to which benefits promised under the defined benefit provision are, in effect, supported by positive investment returns under the offset provision. Since the defined benefits are not actually lost, it would be inappropriate for them to give rise to a PAR.

It should be noted that, by virtue of subsection 8300(11), the individual's PAR under the defined benefit provision is not determined until the individual has terminated from all offset provisions and then only if no benefits, other than lump sum amounts, have been paid under the offset provisions. This ensures that the excess money purchase amount relating to each offset provision, and thus the individual's PAR under the defined benefit provision, is determinable.

The application of this subsection is illustrated in examples 10(a) and (b) following the commentary on subsection 8304.1(16).

ITR
8304.1(13)

Subsequent Membership

New subsection 8304.1(13) of the Regulations set out a number of rules that apply in determining a PAR in connection with an individual's termination from a DPSP or benefit provision of an RPP where the individual had previously been a member in relation to the plan or provision. In general terms, these rules provide for the

individual's PAR to be determined without regard for anything that happened during the earlier period of membership.

In particular, in the case of a DPSP or money purchase provision of an RPP, amounts allocated to the individual during the previous period of membership are disregarded. In the case of a defined benefit provision of an RPP, pension credits and grossed-up PSPA amounts (variables A and B in subsection 8304.1(5)) attributable to benefits provided during the previous period of membership are disregarded, as are specified distributions (variable C in subsection 8304.1(5)) made during that time.

These rules, together with rules in subsections 8304.1(3) to (6) which provide for the individual's PAR to be determined without regard for anything that happens during a subsequent period of membership, ensure that an individual's PAR determined in connection with the termination of any one period of membership in a DPSP or benefit provision of an RPP is determined as though that period were the only period of membership.

ITR

8304.1(14)

Termination Conditions – Deferred Profit Sharing Plan

New subsection 8304.1(14) of the Regulations sets out conditions which must be satisfied in order for a PAR to be determined in connection with an individual's termination from a DPSP. The conditions are that:

- the termination has occurred after 1996;
- the termination is not because of the individual's death;
- no instalment payments (as permitted under subparagraph 147(2)(k)(v) of the Act) have been made from the plan in respect of the individual; and
- no annuity (as permitted under subparagraph 147(2)(k)(vi) of the Act) has been purchased by the plan for the individual.

If these conditions are satisfied, the individual's PAR is determined in accordance with the rules in paragraph 8304.1(3)(a). If they are not satisfied, the individual's PAR is defined by paragraph 8304.1(3)(b) to be nil. (Refer to the commentary on subsection 8304.1(3) for further details.)

ITR

8304.1(15)

Termination Conditions – Registered Pension Plan

New subsection 8304.1(15) of the Regulations sets out conditions which must be satisfied in order for a PAR to be determined in connection with an individual's termination from a benefit provision of an RPP. The conditions are that:

- the termination has occurred after 1996;
- the termination is not because of the individual's death;
- retirement benefits (as defined in subsection 8500(1) of the Regulations) have not been paid under the provision with respect to the individual (other than retirement benefits paid to the individual's former spouse as a consequence of marriage breakdown); and
- the individual has not acquired ownership of an annuity contract in full or partial satisfaction of the individual's entitlement to benefits under the provision (other than an annuity contract acquired by way of a transfer to an RRSP or RRIF).

If these conditions are satisfied, the individual's PAR is determined in accordance with the rules in paragraph 8304.1(4)(a) (for a money purchase provision) or in paragraph 8304.1(5)(a) (for a defined benefit provision). If they are not satisfied, the individual's PAR is defined by paragraph 8304.1(4)(b) or (5)(b) to be nil. (Refer to the commentary on subsections 8304.1(4) and (5) for further details.)

ITR

8304.1(16)

Marriage Breakdown

New subsection 8304.1(16) of the Regulations contains special rules that apply in determining specified distributions under subsection 8304.1(8) in respect of a member of a defined benefit provision whose spouse has acquired rights to benefits under the provision as a consequence of a breakdown of their marriage. These rules ensure that, in the unusual situation in which the spouse's entitlement is not fully satisfied by the payment of a single amount on or before the individual's termination from the provision, the individual's PAR is determinable and that the determination will be straightforward.

In particular, the rules in subsection 8304.1(16) will apply where, as a consequence of marriage breakdown, the spouse of a member of a defined benefit provision acquires rights to all or part of the benefits provided to the member under the provision and

- benefits remain payable to the spouse after the member's termination from the provision, or
- retirement benefits have been paid to the spouse before the member's termination from the provision, or
- a single amount has been paid in partial satisfaction of the spouse's entitlement to benefits under the provision before the member's termination from the provision.

In these situations, subsection 8304.1(16) provides that any amount paid under the provision with respect to the rights acquired by the spouse is deemed not to have been paid with respect to the member. This means that the amount paid cannot be considered to be a specified distribution made in respect of the member and, consequently, it is disregarded in determining the member's PAR. However, subsection 8304.1(16) deems a single amount to have been paid to the member on termination equal to the present value (determined at the time of termination) of the benefits given up by the member on marriage breakdown. Thus, to the extent that the amount would be considered to be a specified distribution under

subsection 8304.1(8) if it were actually paid to the member, it will reduce the member's PAR.

It should be noted that subsection 8304.1(16) does not apply in the more common situation where, on or before the member's termination from the provision, the spouse receives a single amount in full satisfaction of benefits to which the spouse is entitled under the provision. In this situation, the payment is considered to be a payment made with respect to the member. Thus, it reduces the member's PAR to the extent that it qualifies as a specified distribution in accordance with subsection 8304.1(8). This means, for example, that any portion of the payment that can be attributed to pre-1990 benefits or surplus is disregarded in determining PAR.

It should also be noted that the fact that PAR does not provide for restoration of RRSP deduction room to compensate for defined benefits given up by a plan member on marriage breakdown is consistent with the fact that tax assistance continues to be provided with respect to those benefits.

Examples 12(a) and (b), which follow, illustrate the calculation of PAR in situations involving marriage breakdown.

Examples

The following examples illustrate the operation of the PAR rules in section 8304.1. Several examples also illustrate the inter-relationship of the PAR rules with the PSPA rules in sections 8303 and 8304. Some examples simply refer to a registered pension plan rather than a benefit provision of an RPP. In these cases, assume that the plan contains only one benefit provision.

Example 1	Defined benefit (DB) to money purchase (MP) conversion
Example 2	MP PAR non-vested termination
Example 3	DB PAR non-vested termination
Example 4	DB PAR – pre-90/post-89 benefits split
Example 5(a)	DB PAR – grossed-up PSPA amount
Example 5(b)	DB PAR – replacement – identical benefit formula – basic PSPA
Example 5(c)	DB PAR – replacement – lower benefit formula – basic PSPA

- Example 5(d) DB PAR – replacement – higher benefit formula – basic PSPA
- Example 6(a) DB PAR – reciprocal transfer – identical benefit formula – modified PSPA – PA transfer amount – administrator to administrator reporting
- Example 6(b) DB PAR – reciprocal transfer – lower benefit formula – modified PSPA – PA transfer amount – administrator to administrator reporting – residual PAR
- Example 6(c) DB PAR – reciprocal transfer – identical benefit formula except more generous ancillary benefits – modified PSPA – PA transfer amount – residual PAR
- Example 7 DB PAR – replacement – basic PSPA – excess money purchase transfer
- Example 8 DB PAR – RRSP dollar limit cap on pension credits included in PAR
- Example 9 DB PAR – transfer between plans of same employer – higher benefit formula – PA transfer amount – modified PSPA
- Example 10(a) DB PAR – DB with MP offset – excess money purchase offset
- Example 10(b) DB PAR – DB with MP offset – excess money purchase offset – negative rate of return
- Example 11 Termination in 1996 and buy-back in 1998 – modified PSPA – PA in year of termination rule – only portion of transfer added to PSPA as new plan benefits were less generous
- Example 12(a) DB PAR – marriage breakdown – lump sum payment to former spouse before termination
- Example 12(b) DB PAR – marriage breakdown – former spouse elects deferred pension
- Example 13 DB PAR – reporting requirements for PA transfer amount – termination in 1997 and replacement in 1997

Example 1

An employer maintains a defined benefit plan for all employees. Effective January 1, 1998, the plan is converted to a money purchase plan. Members are given the option of either preserving their accrued benefits in defined benefit form or transferring the

commuted value of those benefits to money purchase accounts under the replacement money purchase provision of the plan. On July 15, 1998, shortly after receiving regulatory approval of the conversion, the plan administrator credits the money purchase accounts of those members who elected the conversion option with the appropriate amounts. Since these members are considered to have terminated from the defined benefit provision on July 15, 1998, the plan administrator calculates a PAR for each of these members. Note that PARs are not determined for those members who elected to preserve their defined benefits.

Example 2

Kate, a member of a money purchase RPP, terminates employment with her employer at the end of November 1997. Since she is not vested, her only entitlement under the plan is to a lump sum amount of \$7,500, representing a return of her contributions to the plan plus interest. In terminating before becoming vested, she forfeits rights to employer contributions of \$8,000, a \$1,200 share of amounts previously forfeited by other members and reallocated to her, and \$1,400 of interest on the employer contributions and reallocated forfeitures. Since she joined the plan after 1989, all employer contributions and reallocated forfeitures have been included in determining her pension credits under the provision. She receives the lump sum payment in February 1998 in full satisfaction of her rights to benefits under the plan.

Kate's PAR under the money purchase provision is \$9,200, that is, the amount of employer contributions and reallocated forfeitures that were included in her money purchase pension credits but not vested. Since she terminated from the plan in 1998 (i.e., when the lump sum payment was made), the PAR will be added to her RRSP deduction room for that year.

Note that the special "PA in year of termination" rule in subsection 8301(8) does not apply to terminations after 1996. Thus, those employer contributions and reallocations made in 1997 are included in Kate's pension credit for 1997, even though she forfeited her entitlement to those amounts on terminating employment. However, as the amounts are reflected in her 1997 pension credit, they are also included in determining her PAR.

Example 3

Mid-way through 1997, Ramesh terminates from a non-contributory defined benefit plan after one and a half years of membership. Because he does not meet the plan's two-year vesting requirement, he is not entitled to any benefits under the plan. His pension credit for 1996 was \$10,700. His pension credit for 1997 is \$5,250. (If subsection 8301(8) had not been amended to restrict the application of the special "PA in year of termination" rule to terminations that occurred before 1997, Ramesh's pension credit for 1997 would have been nil.)

Ramesh's PAR is \$15,950, which is simply the sum of his pension credits for the one and half years of service. Although he terminated from the plan in 1997, the PAR will only be added to his RRSP deduction room for 1998. (For terminations after 1997, PAR is added to RRSP deduction room for the year of termination.)

Example 4

Nick became a member of his employer's defined benefit RPP in July 1984. In June 1999, he terminates employment and is given the choice of taking a deferred pension from the plan or transferring the commuted value of his pension entitlement to an RRSP. He chooses to leave the plan and, in August, a termination benefit of \$108,200 is transferred to his RRSP in full satisfaction of his rights to benefits under the plan. The benefit formula under the plan, which was 1.5% of best average earnings per year of service, had remained unchanged during his 15 years of plan membership. His pension credits for his post-1989 service totalled \$76,200.

Nick's PAR is \$7,673, calculated as the total pension credits less the post-1989 portion of the termination payment.

$$\text{PAR} = \$76,200 - (\$108,200 \times 9.5/15) = \$7,673$$

Since the benefit accrual rate under the plan had been uniform during Nick's membership, a simple proration of the termination payment, based on the post-1989 proportion of the total period of pensionable service, is acceptable in determining PAR.

Nick's PAR is added to his RRSP deduction room for 1999.

Example 5(a)

In 1993, Julie joins a defined benefit RPP (Plan W) promising benefits of 1.6% of earnings per year of service. She obtains past service benefits, funded by a \$6,000 qualifying transfer from her RRSP, for a two-year period of eligible past service beginning in 1991 that was not previously pensionable service under an RPP. The pension credits for the past service benefits total \$10,000. Since the period was not previously pensionable service, Julie's PSPA is determined according to basic the PSPA rules in subsection 8303(3). The PSPA is \$4,000, determined as follows:

$$\begin{aligned} \text{PSPA} &= A - B - C \\ &= \$10,000 - 0 - \$6,000 \\ &= \$4,000 \end{aligned}$$

Note that, since the past service event occurred before 1998, there is no variable D (excess money purchase transfer).

At the end of 1998, Julie changes jobs and is entitled to a termination benefit of \$35,000. Her pension credits from 1993 to 1998 total \$40,000. In February 1999, Julie transfers her termination benefit to a locked-in RRSP. Julie's PAR under Plan W is \$15,000, calculated as follows:

$$\begin{aligned} \text{PAR} &= A + B - C - D - E \\ &= \$40,000 + \$10,000 - \$35,000 - 0 - 0 \\ &= \$15,000 \end{aligned}$$

$$A = \text{Total pension credits} = \$40,000$$

$$B = \text{Total grossed-up PSPA amounts for past service benefits provided under Plan W} = \$10,000$$

$$C = \text{Total amount of specified distributions} = \$35,000$$

$$D = \text{Total PA transfer amounts} = 0$$

$$E = \text{Total excess money purchase offsets} = 0$$

Variable B, the adjustment for the grossed-up PSPA amount associated with Julie's purchase of two years of past service benefits, is equal to the amount that would have been the PSPA in respect of the past service benefits if there had been no qualifying transfers made to fund the benefits ($= \$10,000 - 0$). Using the grossed-up PSPA amount, rather than the actual PSPA amount, is consistent with the fact that Julie did not give up only \$4,000 worth of deduction room available for future RRSP contributions to acquire the past service benefits – she also gave up \$6,000 worth of existing tax-sheltered RRSP funds.

Example 5(b)

As in example 5(a), Julie changes jobs at the end of 1998 and transfers her \$35,000 termination benefit to a locked-in RRSP. Mid-way through 1999, Julie arranges to obtain credit under her new employer's defined benefit RPP (Plan X) for the eight years of previous RPP service. The benefits provided under Plan X are **identical** to those provided under Plan W.

The total pension credits for the past service benefits under Plan X is \$50,000. To fund the past service benefits, Julie transfers \$36,000 from her RRSP to Plan X. Since she ceased to be a member of Plan W before the past service event, her PSPA for the benefits provided under Plan X is determined according to the basic PSPA rules in subsection 8303(3). The PSPA is \$14,000, determined as follows:

$$\begin{aligned} \text{PSPA} &= A - B - C + D \\ &= \$50,000 - 0 - \$36,000 + 0 \\ &= \$14,000 \end{aligned}$$

Variable D, the adjustment for excess money purchase transfers, is zero because the PA value of Julie's benefits under Plan W (\$50,000) was greater than the amount that was transferred to her RRSP (\$35,000).

Note that, since the basic PSPA rules apply, there is no offset in the PSPA calculation for the PA value of benefits previously provided to Julie under Plan W. This is appropriate because credit for the PA value of those benefits has already been given in determining PAR in connection with her termination from Plan W.

Note also that the funds transferred from Plan W to her RRSP, together with the RRSP deduction room created by the PAR determined under Plan W, allows the past service benefits to be provided under Plan X without any additional loss of RRSP deduction room (i.e., over and above the RRSP deduction room initially given up on account of the provision of benefits under Plan W).

At the end of 2001, Julie leaves employment and transfers her termination benefit of \$71,000 under Plan X to a locked-in RRSP. Her pension credits under Plan X from 1999 to 2001 total \$30,000. Her PAR under Plan X is \$9,000, calculated as follows:

$$\begin{aligned} \text{PAR} &= A + B - C - D - E \\ &= \$30,000 + \$50,000 - \$71,000 - 0 - 0 \\ &= \$9,000 \end{aligned}$$

Example 5(c)

*As in example 5(b), mid-way through 1999 Julie arranges to obtain credit under her new employer's defined benefit RPP (Plan Y) for the eight years of previous RPP service. This example differs from example 5(b) only in the fact that Plan Y has a **lower** benefit formula than Plan W.*

To fund the past service benefits, Julie transfers \$28,000 from her RRSP to Plan Y. The total pension credits for the past service benefits under Plan Y is \$40,000 (as compared to \$50,000 under Plan W). Again, Julie's PSPA under Plan Y is determined according to the basic PSPA rules, as follows:

$$\begin{aligned} \text{PSPA} &= A - B - C + D \\ &= \$40,000 - 0 - \$28,000 + 0 \\ &= \$12,000 \end{aligned}$$

Note that, after the provision of the past service benefits, Julie still has, in her RRSP, \$7,000 of the \$35,000 transferred from Plan W (i.e., \$35,000 - \$28,000). She also has \$3,000 of the \$15,000 of RRSP deduction room created by PAR (i.e., \$15,000 - \$12,000). The total \$10,000 of RRSP funds and deduction room is equivalent to the total PA value of benefits not being replaced by the past service benefits (i.e., \$50,000 - \$40,000).

Near the end of 2001, Julie leaves employment and transfers her Plan Y termination benefit of \$44,000 to a locked-in RRSP. Her pension credits under Plan Y from 1999 to 2001 total \$20,000. Her PAR under Plan Y is \$16,000, calculated as follows:

$$\begin{aligned}\text{PAR} &= A + B - C - D - E \\ &= \$20,000 + \$40,000 - \$44,000 - 0 - 0 \\ &= \$16,000\end{aligned}$$

Example 5(d)

This example is the same as example 5(b) except that the new employer's defined benefit RPP (Plan Z) has a **higher** benefit formula than Plan W.

To fund the eight years of past service benefits, Julie transfers \$45,000 from her RRSP to Plan Z. The total pension credits for the past service benefits under Plan Z is \$68,000 (as compared to \$50,000 under Plan W). Julie's PSPA under Plan Z is determined according to the basic PSPA rules, as follows:

$$\begin{aligned}\text{PSPA} &= A - B - C + D \\ &= \$68,000 - 0 - \$45,000 + 0 \\ &= \$23,000\end{aligned}$$

Near the end of 2001, Julie leaves employment and transfers her Plan Z termination benefit of \$75,000 to a locked-in RRSP. Her pension credits under Plan Z from 1999 to 2001 total \$35,000. Her PAR under Plan Z is \$28,000, calculated as follows:

$$\begin{aligned}\text{PAR} &= A + B - C - D - E \\ &= \$35,000 + \$68,000 - \$75,000 - 0 - 0 \\ &= \$28,000\end{aligned}$$

Example 6(a)

At the end of 1998, Mark changes jobs and elects, under a reciprocal transfer agreement, to have defined benefit credits in respect of seven years of service (1992 to 1998) transferred to his new employer's RPP. Benefits under the exporting plan and the importing plan are identical – 2% of best average earnings per year of service less an identical offset for public pension benefits.

For both plans, the pension credits from 1992 to 1998, based on Mark's earnings in those years, total \$56,200. In accordance with the reciprocal transfer agreement, \$51,300 is to be transferred from the exporting plan to the importing plan to fund the past service benefits. Pursuant to the agreement, Mark ceases to be entitled to benefits under the exporting plan, and becomes entitled to benefits under the importing plan, when the importing plan receives the transfer. This occurs in March 1999.

Since the past service benefits are provided under a reciprocal transfer agreement, Mark's PSPA under the importing plan is determined according to the modified PSPA rules in subsection 8304(5). Under these rules, his PSPA is nil, determined as follows:

$$\begin{aligned}
 \text{PSPA} &= A + B + C - D \\
 &= (\$56,200 - \$56,200) + 0 + 0 - 0 \\
 &= 0
 \end{aligned}$$

The fact that the modified PSPA rules apply ensures that the PSPA measures only the extent to which Mark's benefits are upgraded. Since benefits under both plans are identical, there is no upgrade in benefits and his PSPA is nil.

Mark's PAR under the exporting plan is also nil, calculated as follows:

$$\begin{aligned}
 \text{PAR} &= A + B - C - D - E \\
 &= \$56,200 + 0 - 0 - \$56,200 - 0 \\
 &= 0
 \end{aligned}$$

Variable D, which is the PA transfer amount associated with the past service benefits provided to Mark under the importing plan, is determined as the amount by which the PA value of his benefits under the exporting plan reduced his PSPA under the importing plan. The fact that the PA transfer amount reduces his PAR to nil is consistent with the fact that the past service benefits have fully replaced his benefits under the exporting plan.

Note that, pursuant to new subsection 8406(4), the importing plan administrator must ensure that the exporting plan administrator is aware of the fact that the past service benefits being provided to

Mark under the importing plan will give rise to a PA transfer amount. This must be done no later than 30 days after the transfer – the transfer being the past service event in this case. In addition, the importing plan administrator has until 60 days after the transfer to advise the exporting plan administrator of the actual PA transfer amount.

Example 6(b)

As in example 6(a), Mark changes jobs and transfers defined benefits between plans. This example differs from example 6(a) only in the fact that benefits under the importing plan are 1.7% of best average earnings per year of service less an offset for public pension benefits.

The total pension credits for Mark's past service benefits under the importing plan is \$47,100 (as compared to \$56,200 under the exporting plan). Under the reciprocal transfer agreement, \$45,200 is transferred from the exporting plan to the importing plan to fund the past service benefits. Mark is entitled to a residual termination benefit of \$6,100 from the exporting plan, representing the commuted value of the benefits not being replaced under the importing plan. He elects to receive this as a \$2,000 cash payment and a \$4,100 transfer to his RRSP. All payments – i.e., the cash payment and the transfers to the importing plan and to the RRSP – are made on March 29, 1999.

Mark's PSPA under the importing plan is nil, determined according to the modified PSPA rules as follows:

$$\begin{aligned}
 \text{PSPA} &= A + B + C - D \\
 &= (\$47,100 - \$56,200 = 0) + 0 + 0 - 0 \\
 &= 0
 \end{aligned}$$

Variable A is zero because the pension credits in respect of the benefits provided under the importing plan are fully offset by the pension credits in respect of the benefits given up under the exporting plan. (Section 257 of the Act provides that a negative amount resulting from an algebraic formula is generally deemed to be nil.) Variable C (money purchase transfers) is also zero because the amount that Mark transferred to his RRSP (\$4,100) is less than the PA value of the benefits under the exporting plan

that are not being replaced under the importing plan (i.e., \$56,200 - \$47,100 = \$9,100). The fact that the transfer is not included in the PSPA ensures that Mark is allowed to retain the \$4,100 in money purchase form.

Mark's PAR under the exporting plan is \$3,000, calculated as follows:

$$\begin{aligned}
 \text{PAR} &= A + B - C - D - E \\
 &= \$56,200 + 0 - (2,000 + 4,100) - \$47,100 - 0 \\
 &= \$3,000
 \end{aligned}$$

Note that the PAR is equal to the PA value of the benefits not being replaced (\$9,100) less the termination benefit of \$6,100 paid in respect of those benefits. Pursuant to the terms of the reciprocal agreement, Mark ceased to be entitled to benefits under the exporting plan, and thus terminated from the defined benefit provision of that plan, on March 29, 1999. Consequently, the PAR is added to his RRSP deduction room for 1999. (Note that the fact that Mark terminated employment with his former employer in 1998 is irrelevant for purposes of determining when PAR is added to his RRSP deduction room.)

As in example 6(a), the importing plan administrator must ensure that the exporting plan administrator is aware of the fact that the past service benefits will give rise to a PA transfer amount, and must do so no later than 30 days after the transfer (i.e., by April 28, 1999). In addition, the importing plan administrator has until 60 days after the transfer (i.e., by May 28, 1999) to advise the exporting plan administrator of the actual PA transfer amount (which, in this case, is \$47,100).

The exporting plan administrator receives both pieces of information from the importing plan administrator on April 26, 1999. Pursuant to new subsection 8402.01(3), the exporting plan administrator has until June 25, 1999 to report the PAR to Mark and Revenue Canada. This is the later of (i) the normal reporting deadline of 60 days after the calendar year quarter in which Mark terminated from the exporting plan and (ii) 60 days after the exporting plan administrator receives notification as to the actual PA transfer amount.

Example 6(c)

As in example 6(a), Mark changes jobs and transfers defined benefits between plans. This example differs from example 6(a) only in the fact that the indexing and survivor benefits under the importing plan are more generous than those provided under the exporting plan.

The amount transferred from the exporting plan to the importing plan (\$51,300) in respect of the service will cover only six of the seven years of pensionable service under the importing plan. According to the method for apportioning service contained in the reciprocal transfer agreement, Mark is credited with service in respect of the most recent service (1993 to 1998). As the benefit accrual rate under both plans is identical, the pension credits for years 1993 to 1998 total \$49,100.

Mark's PSPA under the importing plan is nil, determined according to the modified PSPA rules in subsection 8304(5) as follows:

$$\begin{aligned}
 \text{PSPA} &= A + B + C - D \\
 &= (\$49,100 - \$49,100) + 0 + 0 - 0 \\
 &= 0
 \end{aligned}$$

Mark's PAR under the exporting plan is \$7,100, calculated as follows:

$$\begin{aligned}
 \text{PAR} &= A + B - C - D - E \\
 &= \$56,200 + 0 - 0 - \$49,100 - 0 \\
 &= \$7,100
 \end{aligned}$$

Note that the PAR is equal to the PA value of the benefits provided under the exporting plan for the one year of pensionable service (1992) in respect of which past service benefits are not being provided under the importing plan. If Mark were to later buy-back the year of service, the basic PSPA rules in subsection 8303(3) would apply in determining the provisional PSPA.

Example 7

In February 1994, Kim joins a defined benefit RPP promising benefits of 2% of best average earnings per year of service. At the end of 1999, Kim leaves employment and transfers his termination benefit of \$80,900 to a locked-in RRSP. His pension credits from 1994 to 1999 total \$61,200. Kim's PAR is nil, calculated as follows:

$$\begin{aligned}
 \text{PAR} &= A + B - C - D - E \\
 &= \$61,200 + 0 - \$80,900 - 0 - 0 \\
 &= 0
 \end{aligned}$$

In April 2000, Kim arranges to obtain credit under his new employer's defined benefit RPP for his previous RPP service. Benefits under both the new plan and the former plan are identical. Under the terms of his employment contract, Kim transfers \$50,000 from his RRSP to the new plan to cover a portion of the cost of the past service benefits. His new employer funds the balance of the cost. Kim's PSPA under the new plan is \$30,900, determined according to the basic PSPA rules as follows:

$$\begin{aligned}
 \text{PSPA} &= A - B - C + D \\
 &= \$61,200 - 0 - \$50,000 + \$19,700 \\
 &= \$30,900
 \end{aligned}$$

Variable D, the adjustment for his excess money purchase transfer, is obtained by subtracting the total pension credits associated with the former benefits from the amount transferred from the prior plan to his RRSP (\$80,900 – \$61,200 = \$19,700). The inclusion of this amount in his PSPA, together with the \$11,200 representing the difference between the PA value of the past service benefits (\$61,200) and the amount transferred from his RRSP to fund the benefits (\$50,000), ensures that Kim cannot double-up on tax assistance by means of re-establishing benefits for his prior pensionable service while retaining part of his prior benefits in money purchase form.

Example 8

In 2001, Nina terminates from a defined benefit RPP promising benefits of 2% of final average earnings per year of service. A

termination benefit of \$18,800, determined as the commuted value of Nina's accrued pension based on two and a half years of service under the plan, is transferred to an RRSP on Nina's behalf. For the two and a half years of service, Nina's pension credits total \$36,950 (\$14,900 for each of 1999 and 2000, and \$7,150 for 2001). Nina's PAR is \$15,350, calculated as follows:

$$\begin{aligned}
 \text{PAR} &= A + B - C - D - E \\
 &= (\$13,500 + \$13,500 + \$7,150) + 0 - \$18,800 \\
 &\quad - 0 - 0 \\
 &= \$15,350
 \end{aligned}$$

Note that, although Nina's pension credit for both 1999 and 2000 was \$14,900, the amount included in determining variable A in the PAR calculation was \$13,500 (i.e., the RRSP dollar limit for the year following the pension credit year). This is to ensure that Nina's PAR does not result in her having more access to tax assisted retirement savings in connection with her earnings for those two years of service than an individual with comparable earnings who had not participated in an RPP and, thus, had access to tax assistance for retirement saving only through RRSPs.

Example 9

An employer maintains two defined benefit RPPs for different groups of employees. As a result of a promotion, Bruno moves from Plan X to Plan Y in January 1999 and exchanges benefits under Plan X for the more generous benefits under Plan Y. Bruno has four years of pensionable service under Plan X with pension credits totalling \$21,400. His pension credits under Plan Y for the four years of past service total \$26,500. His PSPA under Plan Y is \$5,100, determined according to the modified PSPA rules as follow:

$$\begin{aligned}
 \text{PSPA} &= A + B + C - D \\
 &= (\$26,500 - 21,400) + 0 + 0 - 0 \\
 &= \$5,100
 \end{aligned}$$

Since the replacement benefits are more generous than the former benefits, Bruno's PAR under Plan X is nil, calculated as follows:

$$\begin{aligned}
 \text{PAR} &= A + B - C - D - E \\
 &= \$21,400 + 0 - 0 - \$21,400 - 0 \\
 &= 0
 \end{aligned}$$

Note that variable D (Bruno's PA transfer amount) is determined as the lesser of the PA value of the past service benefits provided to him under Plan Y (\$26,500) and the PA value of the benefits previously provided to him under Plan X (\$21,400). The fact that his PAR is nil is consistent with the fact that his benefits under Plan X have been more than fully replaced by his benefits under Plan Y. Note that, if he were to subsequently terminate from Plan Y, the grossed-up PSPA amount (\$26,500), rather than the actual PSPA amount (\$5,100), would be included in his PAR under Plan Y.

Example 10(a)

An employer maintains an RPP that provides retirement benefits on a combination defined benefit and money purchase basis. A plan member's benefits are the total of (i) benefits under a non-contributory money purchase provision and (ii) benefits under a defined benefit provision which promises a pension equal to a fixed percentage of best average earnings times years of pensionable service less whatever amount of pension is provided under the money purchase provision.

Nathalie terminates from the plan during 1999, after three years of membership. She is entitled to a \$21,900 termination benefit under the money purchase provision, consisting of \$18,000 of employer contributions and \$3,900 of interest. She is entitled to a \$2,100 termination benefit under the defined benefit provision, representing the commuted value of the pension accrued to her under the provision before the money purchase offset (\$24,000) less the termination benefit payable under the money purchase provision. She transfers both termination benefits to an RRSP in full satisfaction of her rights to benefits under the plan. Her money purchase and defined benefit pension credits for the three years of membership total \$18,000 and \$10,600 respectively.

Nathalie's money purchase PAR is nil, as she terminated fully vested. Her defined benefit PAR is \$4,600, calculated as follows:

$$\begin{aligned}
 \text{PAR} &= A + B - C - D - E \\
 &= \$10,600 + 0 - \$2,100 - 0 - (\$21,900 - \$18,000) \\
 &= \$4,600
 \end{aligned}$$

Since Nathalie's money purchase pension credits were taken into account in determining her defined benefit pension credits in accordance with paragraph 8302(2)(c), variable E is relevant with respect to the PAR calculation. Variable E, the excess money purchase offset, effectively reduces Nathalie's defined benefit PAR by the earnings on the money purchase contributions.

Example 10(b)

This example is the same as example 10(a), except that the investment earnings under the money purchase provision are negative.

Nathalie is entitled to a \$16,100 termination benefit under the money purchase provision, representing the net balance in the money purchase account (employer contributions of \$18,000 minus an investment loss of \$1,900). She is entitled to a \$7,900 termination benefit under the defined benefit provision, representing the commuted value of the pension accrued to her under the provision before the money purchase offset (\$24,000) less the termination benefit payable under the money purchase provision. As in example 10(a), she transfers both termination benefits to an RRSP in full satisfaction of her rights to benefits under the plan.

Nathalie's money purchase PAR is nil, as she terminated fully vested. Her defined benefit PAR is calculated as follows:

$$\begin{aligned}
 \text{PAR} &= A + B - C - D - E \\
 &= \$10,600 + 0 - \$7,900 - 0 - (\$16,100 - \\
 &\quad \$18,000 = 0) \\
 &= \$2,700
 \end{aligned}$$

Note that the total of Nathalie's defined benefit PAR (\$2,700) plus her termination benefit under the defined benefit provision

(\$7,900) equals the amount of RRSP deduction room that she originally gave up (through the defined benefit pension credits) on account of her participation in the defined benefit provision. Note also that neither the defined benefit PAR nor the money purchase PAR provide for a restoration of RRSP deduction room to compensate Nathalie for the \$1,900 of investment losses under the money purchase provision. Such compensation would not be appropriate since, as a general rule, RRSP limits are neither increased to reflect poor investment returns nor reduced to reflect above-average returns.

Example 11

In June 1996, Robert leaves employment with an employer and loses entitlement to pension benefits based on two and a half years of service under an RPP promising benefits of 1.5% of final average earnings per year of service. A termination benefit of \$8,500, determined as a return of employee contributions plus interest, is transferred in 1996 to an RRSP on Robert's behalf. For the two and a half years of service, Robert's pension credits total \$16,300. The pension credit for 1996, determined according to the "PA in year of termination" rule in subsection 8301(8), is \$1,700. This amount is the lesser of the \$1,700 of employee contributions made in the year under the provision and the \$5,200 pension credit that would be determined but for subsection 8301(8). As the termination occurred before 1997, Robert does not receive a PAR.

On February 1, 1998, Robert joins the plan of a new employer and is provided with past service benefits in respect of the two and a half years of previous pensionable service under the former plan. The benefit formula under the new plan is less generous than the formula under the former plan. The pension credits under the new plan in respect of the past service benefits total \$18,000 (as compared to \$19,800 under the former plan determined without reference to special PA calculation rule in subsection 8301(8)). Robert does not transfer any amount from an RRSP or

other money purchase vehicle to fund the past service benefits. Since he terminated from the former plan before 1997, his PSPA is determined according to the modified PSPA rules in subsection 8304(5) as follows:

$$\begin{aligned}
 \text{PSPA} &= A + B + C - D \\
 &= 0 + \$3,500 + \$6,700 - 0 \\
 &= \$10,200
 \end{aligned}$$

The fact that the modified PSPA rules apply ensures that the PSPA measures only the extent to which the past service benefits provided to Robert under the new plan can be considered to be an improvement of the benefits provided to him under the former plan. This is consistent with the fact that he did not receive a PAR in connection with his termination from the former plan.

In this PSPA calculation, variable A is zero as the PA value of his former benefits (\$19,800) is greater than the PA value of his new benefits (\$18,000). Variable B is the difference between the amount that would have been Robert's pension credit under the former plan for the year of termination if the "PA in year of termination rule" in subsection 8301(8) had not applied, and the actual amount of his pension credit (i.e. $\$5,200 - \$1,700 = \$3,500$). Variable C is the amount by which the \$8,500 RRSP transfer exceeds the PA value of those former benefits that are not being replaced under the new plan (i.e., $\$19,800 - \$18,000 = \$1,800$). Note that, if the benefit formula under the new plan had been identical to or more generous than the formula under the former plan, the full amount of the RRSP transfer would have been included in variable C.

Example 12(a)

At the end of 1996, Philip separates from his spouse, Denise. In accordance with provincial family law, Denise acquires rights to one half of Philip's accrued pension benefits under his employer's defined benefit RPP. She elects an immediate transfer of the commuted value of her benefits (\$11,000) to her RRSP.

Two and a half years later, Philip terminates employment after six years of membership in the plan. In August 1999, a lump sum payment of \$31,300 – the commuted value of his accrued pension

adjusted to reflect the benefits forfeited on marriage breakdown – is transferred to his RRSP in full satisfaction of his entitlement to benefits under the plan. His pension credits for the six years of service totalled \$50,100.

Philip's PAR is \$7,800, calculated as follows:

$$\begin{aligned} \text{PAR} &= A + B - C - D - E \\ &= \$50,100 + 0 - (\$11,000 + 31,300) - 0 - 0 \\ &= \$7,800 \end{aligned}$$

Note that the lump sum transferred to Denise's RRSP is included in variable C because it is considered to be an amount paid (and, thus, to be a specified distribution) under the defined benefit provision with respect to Philip.

Example 12(b)

This example is the same as example 12(a), except that, pursuant to provincial law, Denise elects to receive a deferred pension under the plan, rather than transferring the commuted value of her benefits to her RRSP. Her pension will commence when she turns 60 years of age. Philip elects to transfer his \$31,300 termination benefit to his RRSP. This is done in August 1999.

In accordance with the special rules in subsection 8304.1(16), Philip's PAR is reduced by an amount (deemed to be a specified distribution) equal to the present value (determined at the time of termination) of the benefits which he forfeited because of marriage breakdown. This is determined to be \$12,500. (Note that subsection 8304.1(16) also provides for Philip's PAR to be determined without taking into account any future payments that may be made to Denise under the plan.)

Philip's PAR is \$6,300, determined as follows:

$$\begin{aligned} \text{PAR} &= A + B - C - D - E \\ &= \$50,100 + 0 - (\$31,300 + \$12,500) - 0 - 0 \\ &= \$6,300 \end{aligned}$$

Example 13

Genevieve terminates from a defined benefit RPP (Plan X) in January 1997 after six years of service. She transfers her termination benefit of \$20,000 to an RRSP in full satisfaction of her rights to benefits under the plan. Later in 1997, she is credited with the six years of previous RPP service under her new employer's defined benefit RPP (Plan Y). The benefits under the two plans are identical. Genevieve transfers \$30,000 from her RRSP to fund the benefits.

Because the past service benefits are provided in 1997, the PSPA under Plan Y is determined according to the modified PSPA rules in existing subsection 8304(5). Since the benefits are identical and the qualifying transfer exceeds the amount previously transferred to her RRSP, the PSPA is nil. Since Genevieve terminated from Plan X after 1996, a PAR is determined, but it will be reduced by the PA transfer amount determined in connection with the benefits provided to her under Plan Y. Because the benefits are identical, the PA transfer amount will reduce her PAR to nil.

Subsection 8406(4) requires that the administrator of Plan Y notify the administrator of Plan X of the occurrence of the past service event and of the fact that it will result in a PA transfer amount that will be relevant in determining Genevieve's PAR under Plan X. This information is to be provided by September 30, 1998. The administrator of Plan Y is also required to advise the administrator of Plan X of the actual PA transfer amount. This information is to be provided no later than 60 days after the day on which these regulations are published in the Canada Gazette.

Clause 9

ITR
8307(5)

PSPA Withdrawals

Subsection 8307(5) of the Regulations defines the amount of an individual's PSPA withdrawals for a year. The definition applies, in

part, for the purpose of computing an individual's net PSPA under former subsection 204.2(1.3) of the Act.

Subsection 8307(5) is amended to remove the reference to subsection 204.2(1.3). This amendment, which applies after 1995, is consequential on amendments to subsection 204.2(1.3) relating to measures announced in the 1995 federal budget.

Clause 10

ITR

8308.1

Foreign Plans

Section 8308.1 of the Regulations provides rules for calculating pension credits and PSPAs for Canadian residents accruing benefits under an unregistered foreign pension plan in respect of employment with an employer carrying on a business in Canada.

Subclauses 10(1) and (2)

ITR

8308.1(2)

Pension Credit

Subsection 8308.1(2) of the Regulations contains rules for calculating an individual's pension credit under a foreign plan. The pension credit for a year is equal to the lesser of (i) 18% of the individual's compensation for the year minus \$1,000, and (ii) the money purchase limit for the year minus \$1,000. As with an RPP pension credit, an individual's foreign plan pension credit for a year reduces the amount of new RRSP deduction room becoming available to the individual in the following year. In most situations, the reduction for the foreign plan pension credit leaves the individual with only \$1,000 of new RRSP deduction room in the following year.

Subsection 8308.1(2) is amended in two ways. First, it is amended to replace the references to "\$1,000" with references to the "PA offset" for the year for which the pension credit is being determined. Since

"PA offset" is defined in subsection 8300(1) to be \$1,000 for years before 1997, this change has no impact on the determination of foreign plan pension credits for those years. However, for years after 1996, "PA offset" is defined to be \$600. This means that there is a \$400 increase in foreign plan pension credits starting in 1997, and a corresponding reduction in the amount of new RRSP deduction room that would otherwise become available in 1998 and subsequent years.

Subsection 8308.1(2) is also amended so that it is subject to new subsection 8308.1(4.1), which provides a special rule for determining foreign plan pension credits for years after 1995 and before 2004. (See the commentary on subsection 8308.1(4.1) for further details.)

Subclause 10(3)

ITR

8308.1(4.1)

Pension Credits – 1996 to 2003

New subsection 8308.1(4.1) of the Regulations provides a special rule for determining foreign plan pension credits from 1996 to 2003. Subsection 8308.1(4.1) provides that, for those years, an individual's pension credit is the lesser of (i) 18% of the individual's compensation for the year minus the PA offset, and (ii) the money purchase limit for the year. In other words, the pension credit is determined as in subsection 8308.1(2), but without subtracting the PA offset from the money purchase limit. This means that, from 1997 to 2004, high-income earners participating in foreign plans will lose all or part of the new RRSP deduction room that would otherwise have become available to them in those years by virtue of the PA offset.

Clause 11

ITR

8308.2

Prescribed Amount for Member of Foreign Plan

Section 8308.2 of the Regulations prescribes a reduction in the amount of an individual's new RRSP deduction room for a year if the individual accrued benefits in the previous year under an unregistered foreign pension plan in respect of employment that did not relate to a business carried on in Canada. The reduction is the lesser of (i) 10% of the individual's compensation for the previous year, and (ii) the money purchase limit for the previous year minus \$1,000.

Section 8308.2 is amended in a number of ways. First, the reference to "\$1,000" is replaced with a reference to the "PA offset" for the previous year. Since "PA offset" is defined in subsection 8300(1) to be \$1,000 for years before 1997, this has no impact on the prescribed reduction in an individual's RRSP deduction room for years before 1998. However, because "PA offset" is defined to be \$600 for years after 1996, an individual's RRSP room will be reduced by an additional \$400 starting in 1998.

Second, the reference to "compensation" is replaced with a reference to "resident compensation", as defined in subsection 8300(1). This change is for clarity only and does not represent a change in policy.

Finally, the section is re-numbered as subsection 8308.2(1), and made subject to new subsection 8308.2(2). Subsection 8308.2(2) provides a special rule for determining prescribed reductions in an individual's RRSP deduction room for years after 1996 and before 2005. For those years, the reduction is the lesser of (i) 10% of the individual's resident compensation for the previous year, and (ii) the money purchase limit for the previous year. In other words, the prescribed reduction is determined without subtracting the PA offset from the money purchase limit. This means that, from 1997 to 2004, high-income earners participating in such foreign plans will lose all or part of the RRSP deduction room that would otherwise have become available to them in those years by virtue of the PA offset.

Clause 12

ITR

8308.3

Specified Retirement Arrangements

Section 8308.3 of the Regulations provides rules for calculating pension credits and PSPAs for individuals accruing benefits under certain unregistered retirement plans, referred to as "specified retirement arrangements" (SRAs), maintained by tax-exempt employers.

Subclauses 12(1) to (3)

ITR

8308.3(1)

Definition

Subsection 8308.3(1) of the Regulations defines an SRA in respect of an individual. In general terms, an SRA is an unregistered pension plan that is unfunded or only partially funded. Certain plans are excluded from the definition of SRA. In particular, paragraph 8308.3(1)(a) excludes most of the plans referred to in the definition of "retirement compensation arrangement" (RCA) in subsection 248(1) of the Act. The only plans not excluded are those referred to in paragraphs (l) (*plans maintained primarily for non-residents*) and (n) (*plans prescribed by section 6802 of the Regulations*) of the RCA definition. Paragraph 8308.3(1)(b) excludes most of the plans referred to in section 6802 of the Regulations. The only plans not excluded are those referred to in paragraph 6802(g) (*pension plans instituted by the social security legislation of another country*). Paragraph 8308.3(1)(c) excludes plans under which all payments will be made to the individual by the individual's 71st birthday or, if later, five years after the individual terminates employment.

Paragraph 8308.3(1)(a) is amended to exclude from the SRA definition plans referred to in paragraph (n) of the RCA definition. This has the effect of excluding all plans referred to in section 6802 of the Regulations, including social security plans in other countries.

Paragraph 8308.3(1)(b) is repealed since it is redundant. These amendments apply from the day as of which subsection 8308.3(1) came into force.

Paragraph 8308.3(1)(c) is amended to reduce the deadline for making all payments under the plan from the individual's 71st birthday to the end of the year in which the individual turns 69 years of age. This amendment applies after 1997 in respect of individuals who, at the end of 1997, were less than 69 years of age.

Subclauses 12(4) and (5)

ITR

8308.3(2)

Pension Credit

Subsection 8308.3(2) of the Regulations contains rules for calculating pension credits in respect of individuals who accrue benefits under an SRA. This subsection gives rise to a pension credit only where the SRA is not supplemental to a registered pension plan (RPP) that provides benefits at, or close to, the maximum permissible level.

Under subsection 8308.3(2), an individual's pension credit for a year with respect to an employer is equal to the amount by which

- (a) the lesser of (i) 18% of the individual's compensation for the year minus \$1,000, and (ii) the money purchase limit for the year minus \$1,000,

exceeds

- (b) the amount that would be the individual's pension adjustment for the year with respect to the employer if no amount were included in respect of SRAs.

As with an RPP pension credit, an individual's SRA pension credit for a year reduces the amount of new RRSP deduction room becoming available to the individual in the following year. In most situations, the reduction for the SRA pension credit leaves the individual with only \$1,000 of new RRSP deduction room in the following year.

Subsection 8308.3(2) is amended in a number of ways. First, the references to \$1,000 are replaced with references to the "PA offset" for the year for which the pension credit is being determined. Since "PA offset" is defined in subsection 8300(1) to be \$1,000 for years before 1997, this change has no impact on the determination of SRA pension credits for those years. However, for years after 1996, "PA offset" is defined to be \$600. This means that there is a \$400 increase in SRA pension credits starting in 1997, and a corresponding reduction in the amount of new RRSP deduction room that would otherwise become available in 1998 and subsequent years.

Second, subsection 8308.3(2) is amended so that it is subject to new subsection 8308.3(3.1), which provides a special rule for determining SRA pension credits for years after 1995 and before 2004. (See the commentary on subsection 8308.3(3.1) for further details.)

Finally, the reference to "compensation" is replaced with a reference to "resident compensation", as defined in subsection 8300(1). This change is for clarity only and does not represent a change in policy.

Subclause 12(6)

ITR

8308.3(3.1)

Pension Credits – 1996 to 2003

New subsection 8308.3(3.1) of the Regulations provides a special rule for determining SRA pension credits from 1996 to 2003. Subsection 8308(3.1) provides that, for those years, an individual's pension credit with respect to an employer is equal to the amount by which

- (a) the lesser of (i) 18% of the individual's compensation for the year minus \$1,000, and (ii) the money purchase limit for the year,

exceeds

- (b) the amount that would be the individual's pension adjustment for the year with respect to the employer if no amount were included in respect of SRAs.

In other words, the pension credit is determined as in subsection 8308.3(2), but without subtracting the PA offset from the money purchase limit. This means that, from 1997 to 2004, high income earners participating in SRAs will lose all or part of the new RRSP deduction room that would otherwise have become available to them in those years by virtue of the PA offset.

In addition, subsection 8308.3(3.1) provides that, for those years in which the money purchase limit is less than \$15,500 (which is the money purchase equivalent of the \$1,722.22 defined benefit limit), the determination of the extent to which basic benefits are provided under an RPP is to be based on \$15,500 rather than on the money purchase limit for the year. This change is relevant only in determining whether an SRA pension credit is to be calculated. It does not affect the calculation of the pension credit itself, which continues to be based on the money purchase limit for the year. (This is to ensure that, where the individual is also participating in an RPP of the employer, the SRA pension credit does not cause the RPP to become revocable under subsection 147.1(8) or (9) of the Act.) This amendment is consequential on the reduction of the money purchase limit to less than \$15,500 for years after 1995 and before 2004.

Clause 13

ITR

8308.4(2)

Government-Sponsored Retirement Arrangements – Prescribed Amount

Subsection 8308.4(2) of the Regulations prescribes a reduction in the RRSP limit of individuals who accrue benefits under "government-sponsored retirement arrangements" (GSRAs). The prescribed amount in respect of an individual for a year is equal to the RRSP dollar limit for that year minus \$1,000.

Subsection 8308.4(2) is amended so that, for years after 1996, the prescribed amount is determined without subtracting \$1,000 from the RRSP dollar limit. Consequently, individuals who participate in GSRAs will have no RRSP deduction room.

Clause 14

ITR
8309

Prescribed Amount for Lieutenant Governors and Judges

Subsection 8309(1) of the Regulations prescribes a reduction in the RRSP limit of a lieutenant governor of a province. The prescribed amount for a year is equal to the lesser of (i) 18% of the lieutenant governor's salary for the previous year minus \$1,000, and (ii) the money purchase limit for the previous year minus \$1,000.

Similarly, subsection 8309(2) prescribes a reduction in the RRSP limit of a judge in receipt of salary under the *Judges Act*. The prescribed amount for a year is equal to lesser of (i) 18% of the judge's salary for the previous year minus \$1,000, and (ii) the money purchase limit for the previous year minus \$1,000.

Subsections 8309(1) and (2) are amended in two ways. First, the references to "\$1,000" are replaced with references to the "PA offset" for the previous year. Since "PA offset" is defined in subsection 8300(1) to be \$1,000 for years before 1997, this has no impact on the prescribed reduction in the RRSP limit of a lieutenant governor or judge for years before 1998. However, the fact that "PA offset" is defined to be \$600 for years after 1996 means that, starting in 1998, the RRSP limit of a lieutenant governor or judge will be reduced by an additional \$400.

Second, each subsection is amended so that it is subject to new subsection 8309(3). Subsection 8309(3) provides a special rule for determining prescribed amounts for years after 1996 and before 2005. For those years, the amount prescribed is the lesser of (i) 18% of the salary of the lieutenant governor or judge for the previous year minus \$1,000, and (ii) the money purchase limit for the previous year. In other words, the prescribed amount is determined for those years without subtracting the PA offset from the money purchase limit. This means that lieutenant governors and judges will generally have no new RRSP deduction room available to them until 2005.

Clause 15

ITR
8311

Rounding of Amounts

Section 8311 of the Regulations provides that pension credits and provisional PSPAs are to be rounded to the nearest dollar. It is amended so that it also applies to PARs.

Clauses 16 to 18

ITR
Part LXXXIV

**Retirement and Profit Sharing Plans –
Reporting and Provision of Information**

Part LXXXIV of the Regulations sets out the reporting requirements for DPSPs, RPPs, foreign plans and certain other retirement arrangements. This Part is amended to require the filing of information returns that report PARs. It is also amended to require the reporting of PARs to individuals and the reporting of information between plan administrators for the purposes of calculating PARs.

Clause 16

ITR
8402.01(1) and (2)

PAR

Where an individual ceases to be entitled to benefits under a DPSP or benefit provision of an RPP after 1996 and before retirement, a PAR is usually required to be determined. The rules for determining PARs are described in detail in the commentary on section 8304.1.

New subsections 8402.01(1) and (2) of the Regulations require that the PAR determined in connection with an individual's termination

from a DPSP or benefit provision of an RPP be reported to Revenue Canada no later than 60 days after the end of the calendar year quarter in which the individual terminates from the plan or benefit provision. Calendar year quarter is defined in section 4300 of the Regulations to mean any of the following periods in a calendar year: January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31. Subsection 8402.01(2) is subject to subsection 8402.01(3), which extends the reporting deadline for defined benefit PARs under certain circumstances.

PARs are to be reported in prescribed form by the plan trustees in the case of DPSPs and by the plan administrator in the case of RPPs. Only PARs that are greater than nil have to be reported to Revenue Canada.

Where a PAR return would otherwise be required to be filed before the later of December 31, 1998 and the day that is 60 days after the date on which these regulations are published in the *Canada Gazette*, the return need not be filed until that later day.

ITR

8402.01(3)

Extended Deadline – PA Transfer Amount

New subsection 8402.01(3) of the Regulations extends the deadline for reporting an individual's PAR determined in connection with the individual's termination from a defined benefit provision of an RPP. The extension applies where it is reasonable for the plan administrator to conclude that a PA transfer amount will be relevant in determining the PAR, and the PA transfer amount is not known at the end of the calendar year quarter in which the termination occurs. In this situation, the deadline is extended to 60 days after the day on which the administrator is advised of the PA transfer amount. The extension is to ensure that the administrator is not required to report the individual's PAR before having all the information needed to calculate it and to ensure that, once the information is available, the administrator has sufficient time to calculate and report the PAR. (See the commentary on new subsections 8304.1(10) and (11), which define an individual's "PA transfer amount" for PAR purposes. Also see new subsection 8406(4), which requires other plan administrators to provide information relating to PA transfer amounts.)

The application of this subsection is illustrated in example 6(b) following the commentary on subsection 8304.1(16).

Clause 17

ITR

8404(1) and (2)

Reporting to Individuals

Subsection 8404(1) of the Regulations provides that, where a person is required by section 8401 (*PA returns*) or subsection 8402.1(1) (*GSRA returns*) to file with Revenue Canada an information return in respect of an individual, the person must forward to the individual, by the date the return is required to be filed with the Revenue Canada, two copies of the portion of the return relating to the individual. Subsection 8404(2) provides a similar requirement with respect to information returns required by section 8402 (*PSPA returns*), subsection 8402.1(2) (*GSRA returns*) or section 8403 (*returns in respect of connected persons*), except that only one copy of the return must be forwarded to the individual.

Subsection 8404(1) is amended to replace the reference to subsection 8402.1(1) with the correct reference to section 8402.1.

Subsection 8404(2) is amended in two ways. First, it is amended so that it also applies with respect to PAR information returns that are required to be filed with Revenue Canada by virtue of new section 8402.01. Second, it is amended to eliminate an incorrect reference to subsection 8402.1(2), which does not exist. (Previously proposed amendments to the Regulations contained a subsection 8402.1(2), which set out rules for determining PSPAs for individuals provided with past service benefits under a GSRA. However, subsection 8402.1(2) was never enacted.)

Clause 18

ITR
8406(4)

Provision of Information – PA Transfer Amount

New subsection 8406(4) imposes certain information sharing requirements on the administrator of an RPP (the "importing plan") when an individual is provided with past service benefits under the plan pursuant to a reciprocal or portability arrangement. These requirements apply where the past service benefits give rise to a PA transfer amount in relation to the individual's termination from a defined benefit provision of another RPP (the "exporting plan") – that is, where the individual terminates from the exporting plan after 1996 and the PSPA is determined in accordance with the modified PSPA rules in subsection 8304(5). The individual's PA transfer amount is determined for this purpose in accordance with new subsection 8304.1(10). In general terms, it is a measure of the extent to which the individual's PSPA under the importing plan is reduced by the PA value of benefits previously provided under the exporting plan. It reduces the individual's PAR under the exporting plan.

Under these circumstances, paragraph 8406(4)(a) requires that the importing plan administrator provide written notification to the exporting plan administrator of the occurrence of the past service event and of its relevance in determining the individual's PAR. This notification is to be provided no later than 30 days after the past service event (or by September 30, 1998, if later). This requirement ensures that the exporting plan administrator is aware that a PA transfer amount is relevant in the PAR determination, and that there is potential for the PAR reporting deadline to be extended in accordance with new subsection 8402.01(3).

Under paragraph 8406(4)(b), the importing plan administrator is also required to provide written notification to the exporting plan administrator as to the individual's actual PA transfer amount. This notification is to be provided no later than 60 days after the past service event or, in the case of a certifiable PSPA, after certification. (Where such notification would otherwise be required before the day that is 60 days after the publication of these regulations in the *Canada Gazette*, it need not be provided until that later date.) This

requirement is to ensure that the exporting plan administrator has all the information needed to calculate the individual's PAR.

These notification requirements also apply where, in 1997, an individual has been provided with past service benefits under a defined benefit provision of an RPP in respect of service that had been pensionable service of the individual under a defined benefit provision of another RPP from which the individual terminated earlier that year. Note that, in this situation, the individual's PSPA is determined under the modified PSPA rules in subsection 8304(5), which gives rise to a special PA transfer amount determined in accordance with new subsection 8304.1(11). As with PA transfer amounts determined under subsection 8304.1(10), this PA transfer amount reduces the PAR determined in connection with the individual's termination from the former provision.

The application of this subsection is illustrated in examples 6(a) and (b) and 13 following the commentary on new subsection 8304.1(16).

Clauses 19 to 26

ITR

Part LXXXV

Registered Pension Plans

Part LXXXV of the Regulations contains rules relating to RPPs. Several amendments are being made to this Part that relate to the retirement savings measures announced in the 1995 and 1996 federal budgets. These include amendments that:

- reduce, from 71 to 69, the age at which an individual's pension must begin under an RPP;
- protect maximum defined benefit RPP accruals during years in which the money purchase limit is less than \$15,500;
- defer until 2005 the indexing of the \$1,722.22 defined benefit limit, while grandfathering certain RPP benefits and contributions that assumed earlier indexing; and

- allow an individual to transfer a single amount from a defined benefit RPP to a registered retirement income fund after turning 72 years of age.

In addition, amendments are being made to Part LXXXV to allow surplus under a defined benefit provision of an RPP to be used on plan wind-up to provide ancillary benefits that are based on previously commuted lifetime retirement benefits, and to allow previously "unused transfer room" to be used to accommodate the subsequent transfer of the commuted value of these benefits to an RRSP or other money purchase type of registered plan.

Clause 19

ITR
8500(1)

Interpretation

"defined benefit limit"

Subsection 8500(1) of the Regulations defines "defined benefit limit" for a year, which is relevant for the limits in section 8504 on the retirement benefits that may be paid under a defined benefit provision of an RPP in the year in which the benefits commence to be paid. (Retirement benefits can be adjusted after the year of commencement to reflect increases in the Consumer Price Index.) The defined benefit limit is currently defined to be \$1,722.22 for years before 1996 and 1/9th of the "money purchase limit" (as defined in subsection 147.1(1) of the Act) thereafter.

The definition is amended so that the defined benefit limit for a year after 1995 is defined to be the greater of \$1,722.22 and 1/9th of the money purchase limit for that year. Since \$1,722.22 is 1/9th of \$15,500, the defined benefit limit will remain frozen at \$1,722.22 until such time as the money purchase limit exceeds \$15,500.

The change to the definition of "defined benefit limit" is effective as of January 1, 1996, with some qualifications. To understand the significance of these qualifications, it is important to note the changes

to the "money purchase limit" definition announced in the 1995 and 1996 federal budgets.

- Prior to the 1995 budget, the money purchase limit for 1996 and subsequent years was defined to be \$15,500 adjusted to reflect increases in the average wage.
- The 1995 budget announced that the money purchase limit would be reduced to \$13,500, \$14,500 and \$15,500 for 1996, 1997 and 1998 respectively. Starting in 1999, the \$15,500 limit would be indexed for increases in the average wage. These changes took effect January 1, 1996.
- The 1996 budget (tabled on March 6, 1996) announced that the money purchase limit would be frozen at the 1996 level of \$13,500 until 2002. For 2003 and 2004, it would be increased to \$14,500 and \$15,500 respectively. Thereafter, it would be indexed to reflect increases in the average wage. These changes took effect January 1, 1997.

The qualifications to the coming-into-force of the change to the "defined benefit limit" definition are as follows.

- The definition applies from January 1 to March 5, 1996 without regard for the changes to the "money purchase limit" definition which took effect on January 1, 1996. In other words, the "defined benefit limit" definition applies during that period as though the money purchase limit for 1996 and subsequent years were \$15,500 indexed – which means that the defined benefit limit is also considered to be indexed starting in 1996. This protects any commuted values paid, annuity contracts purchased and employer RPP contributions made during that period based on an assumption that the defined benefit limit would be indexed before 1999.
- The definition applies between March 6 and December 31, 1996 as though the changes to the "money purchase limit" definition which took effect on January 1, 1997 had actually taken effect on March 6, 1996. In other words, the "defined benefit limit" definition applies during that period as though the money purchase limit would not be indexed until 2005. This ensures that the

deferral of the indexing of the defined benefit limit to 2005 applies as of March 6, 1996.

Reference should also be made to new subsections 8509(13) and 8516(9) of the Regulations, which contain grandfathering provisions for certain RPP benefits and contributions based on indexing of the defined benefit limit before 2005.

Clause 20

ITR
8501(7)

Benefits Provided with Surplus on Plan Wind-Up

New subsection 8501(7) of the Regulations contains a provision which, in general terms, allows surplus under a defined benefit provision of an RPP to be used on wind-up of the plan to provide stand-alone ancillary benefits to former members.

Subsection 8501(7) applies where an actuarial surplus under a defined benefit provision of an RPP is used, on full or partial wind-up of the plan, to provide benefits ("surplus benefits") to an individual who had previously commuted retirement benefits ("commuted benefits") under the provision. Subsection 8501(7) provides that, for purposes of determining whether the surplus benefits are permissible benefits under Part LXXXV of the Regulations, it is to be assumed that the commuted benefits had not been commuted. This will be of relevance primarily in allowing surplus to be used to provide ancillary benefits (such as indexing and survivor benefits) which, because of the previous commutation of the lifetime retirement benefits on which they are based, would not otherwise be permissible benefits. Subsection 8501(7) applies only with the approval of Revenue Canada.

It should be noted that surplus amounts are normally converted to benefits simply to gain access to continued tax sheltering on those amounts. Usually, the individual will commute the benefits shortly after conversion and transfer the commuted value to an RRSP or RRIF, subject to the transfer limit determined under section 8517 of the Regulations. (See the commentary on new subsection 8517(3.1),

which provides for the determination of a special transfer limit when an individual is commuting benefits that were permissible only by virtue of subsection 8501(7).)

Finally, it should be noted that subsection 8501(7) does not apply to accommodate stand-alone ancillary benefits provided in respect of post-1989 service where the benefits would be provided to a former member who had terminated from the defined benefit provision after 1996 and before retirement. This is to ensure that the individual is not provided with benefits that, had they been provided before termination, would have affected the determination of PAR. An alternative mechanism for obtaining continued tax sheltering of surplus, in this situation, is to use the RRSP deduction room created by the individual's PAR (if any) to support a tax-neutral rollover of the surplus to the individual's RRSP.

New subsection 8501(7) applies to benefits provided under an RPP after 1996.

Clause 21

ITR
8502(e)

Conditions Applicable to All Plans – Payment of Pension

Section 8502 of the Regulations lists conditions that apply for the registration of a pension plan. Paragraph 8502(e) requires an RPP to provide that retirement benefits will commence to be paid to each member no later than the end of the year in which the member turns 71 years of age.

Paragraph 8502(e) is amended to require an RPP to provide that retirement benefits will commence to be paid to each member no later than the end of the year in which the member turns 69 years of age.

This amendment applies after 1996, with the following qualifications.

- It does not apply to members who turned 69 before 1996 and, for those who turned 69 in 1996, it is amended to require only that benefits commence by the end of 1997.

- It does not apply to retirement benefits that are provided by means of an annuity contract issued before March 6, 1996, if the annuity contract, as it read on March 5, 1996, satisfied certain conditions. First, the contract must have provided for payment of the annuity to commence on a specific date and the date must be after the year in which the member turns 69 (70 if the member turned 69 in 1996). Second, the contract must have established the amount and timing of each annuity payment.

Clause 22

ITR

8503(2)(f)

Permissible Benefits – Defined Benefit Provision – Pre-Retirement Survivor Benefits – Alternative Rule

Section 8503 of the Regulations describes the benefits that may be provided under a defined benefit provision of an RPP and contains conditions applicable to such benefits. Paragraph 8503(2)(f) permits an RPP to provide pre-retirement survivor benefits under a defined benefit provision of the plan to a beneficiary who is a spouse or former spouse of the member. Generally, the benefits must commence to be paid by the end of the year in which the beneficiary turns 71 years of age.

Paragraph 8503(2)(f) is amended in the same manner, and with the same qualifications, as paragraph 8502(e).

Clause 23

ITR

8506(1)(e)

Permissible Benefits – Money Purchase Provision – Pre-Retirement Surviving Spouse Benefits

Paragraph 8506(1)(e) of the Regulations permits an RPP to provide pre-retirement survivor benefits under a money purchase provision of the plan to a beneficiary who is a spouse or former spouse of the

member. Generally, the benefits must commence to be paid by the end of the year in which the beneficiary turns 71 years of age.

Paragraph 8506(1)(e) is amended in the same manner, and with the same qualifications, as paragraph 8502(e).

Clause 24

ITR

8509(12)

PA Limits – 1996 to 2003

New subsection 8509(12) of the Regulations contains rules that restrict the application of subsections 147.1(8) and (9) of the Act. Those subsections provide that an RPP becomes revocable if a member's pension adjustment (PA), total PAs or total pension credits (referred to in subsection 8509(12) as a "test amount") exceed certain limits. One of the limits is the money purchase limit for the year.

Subsection 8509(12) provides, in effect, for a portion of a test amount to be disregarded for purposes of applying the limits in subsections 147.1(8) and (9) in any calendar year after 1995 and before 2004. The disregarded amount is equal to the lesser of:

- the amount by which (i) the total pension credits included in the test amount under defined benefit provisions and under certain money purchase provisions and deferred profit sharing plans (or \$15,500, if less) exceeds (ii) the money purchase limit for the year, and
- the total defined benefit pension credits included in the test amount.

The only money purchase and DPSP pension credits that are taken into account in determining the disregarded amount are those that, by virtue of 8302(2)(c), have entered into the calculation of a defined benefit pension credit included in the test amount. It should be noted that a pension credit under a money purchase provision or DPSP enters into the calculation of a defined benefit pension credit where the benefits provided under the defined benefit provision are offset by

the benefits provided under the money purchase provision or the DPSP.

Subsection 8509(12) applies after 1995 and is consequential on the reduction of the money purchase limit to less than \$15,500 for years from 1996 to 2003. The disregarded amount ensures that a defined benefit plan (including a hybrid plan) providing maximum benefits to higher-income members does not become revocable only because of the fact that PAs are greater than the money purchase limit (so long as they do not exceed \$15,500).

Example 1

Dan participates in a defined benefit RPP with a 2% benefit accrual rate. The plan is a single-employer plan. His pensionable earnings for 1996 are \$85,000.

Results:

1. Dan's pension credit and PA for 1996 are \$14,300 (= (2% X \$85,000 X 9) - \$1,000).

2. Under subsection 8509(12), Dan's PA for 1996 is reduced, for purposes of subsection 147.1(8), by \$800 which is the lesser of:

- the defined benefit pension credits included in PA (\$14,300) less the money purchase limit for the year (\$13,500), and*
- the defined benefit pension credits included in PA (\$14,300).*

Because of this reduction, the fact that Dan's actual PA for 1996 exceeds the money purchase limit does not cause the plan to become revocable.

Example 2

Jennifer participates in a money purchase RPP with a 2% defined benefit top-up. The plan is a single-employer plan. Her money purchase and defined benefit pension credits for 1997 are \$13,500 and \$1,400 respectively.

Results:

1. Jennifer's 1997 PA is \$14,900.

2. Under subsection 8509(12), Jennifer's PA for 1997 is reduced, for purposes of subsection 147.1(8), by \$1,400 which is the lesser of:

- the total defined benefit and offset money purchase pension credits included in PA (\$14,900) less the money purchase limit for the year (\$13,500), and
- the defined benefit pension credits included in PA (\$1,400).

As a result of this reduction, the fact that Jennifer's actual PA for 1997 exceeds the money purchase limit does not cause the plan to become revocable. However, if the money purchase pension credit had been greater than \$13,500, for example \$14,000 (with a corresponding reduction in the defined benefit pension credit to \$900), the disregarded amount of PA would have been only \$900 and the plan would have become revocable.

Example 3

Melissa participates in a defined benefit RPP that allows plan members to make additional voluntary contributions (AVCs). In 1997, she contributed \$400 of AVCs. Her money purchase and defined benefit pension credits for 1997 are \$400 and \$14,900 respectively.

Results:

1. Melissa's 1997 PA is \$15,300.

2. Under subsection 8509(12), Melissa's PA for 1997 is reduced, for purposes of subsection 147.1(8), by \$1,400 which is the lesser of:

- the defined benefit pension credits included in PA (\$14,900) less the money purchase limit for the year (\$13,500), and
- the defined benefit pension credits included in PA (\$14,900).

Thus, the plan becomes revocable as Melissa's PA for 1997 (reduced to \$13,900 for purposes of subsection 147.1(8)) still exceeds the money purchase limit of \$13,500. Note that the \$400 money purchase pension credit was not taken into account in computing the disregarded amount of PA under subsection 8509(12) because the money purchase provision is not an offset provision.

ITR

8509(13)

Maximum Benefits Indexed Before 2005

New subsection 8509(13) of the Regulations contains a transitional rule with respect to the maximum pension limits in subsections 8504(1) (*lifetime retirement benefits*), (5) (*retirement benefits before age 65*) and (6) (*pre-1990 benefits*) and paragraph 8505(3)(d) (*additional benefits on downsizing*) of the Regulations, each of which is dependent on the defined benefit limit for the year in which an individual's retirement benefits commence to be paid.

In general terms, subsection 8509(13) applies with respect to RPPs submitted for registration before March 6, 1996 which explicitly provide for the maximum limits on retirement benefits to be indexed before 2005 (rather than limiting benefits simply by making reference to the maximum pension limits set out in the Regulations). The effect of subsection 8509(13) is to provide such plans until December 31, 1997 to be amended to comply with the revised maximum pension limits (instead of March 6, 1996). (See the commentary on the "defined benefit limit" definition in subsection 8500(1) for further details.)

The subsection also provides that, in determining at any time after 1997 whether pensions that have commenced to be paid under such plans in 1996 or 1997 satisfy the maximum pension limits, the defined benefit limit is deemed to be what it would have been if indexing of the limit had started in 1996. This is relevant since the limits on benefits payable in years following the year of pension commencement are based on the defined benefit limit for the year of commencement adjusted for subsequent increases in the Consumer Price Index.

Finally, subsection 8509(13) provides similar protection where an individual's benefits under such a plan are provided by means of an annuity contract that was acquired by the plan before March 6, 1996 and under which payments are not scheduled to commence until after 1997. Where the contract established the commencement date and the amount and timing of each annuity payment before March 6, 1996, subsection 8509(13) provides that, in determining at any time thereafter whether the annuity benefits satisfy the maximum pension limits, the defined benefit limit is deemed to be what it would have been if indexing of the limit had started in 1996.

Clause 25

ITR
8516

Eligible Contributions

Subsection 147.2(2) of the Act defines "eligible contribution" to be an RPP contribution made by an employer in respect of the defined benefit provisions of the plan, where the contribution either satisfies the conditions in that subsection or is prescribed under section 8516 of the Regulations. Eligible contributions are defined for purposes of subsection 147.2(1) of the Act (*deduction of employer contributions*) and paragraph 8502(b) of the Regulations (*permissible contributions to an RPP*).

Subclause 25(1)

ITR
8516(1)

Prescribed Contribution

Subsection 8516(1) of the Regulations provides that a contribution made by an employer to an RPP in respect of the defined benefit provisions of the plan is a prescribed contribution for the purposes of subsection 147.2(2) of the Act if it is a contribution described in any of subsections 8516(2) to (8).

Subsection 8516(1) is amended to include, in the list of prescribed contributions, a contribution described in new subsection 8516(9).

Subclause 25(2)

ITR
8516(9)

Actuarial Reports Signed Before March 6, 1996

New subsection 8516(9) of the Regulations describes, for the purposes of subsection 8516(1), certain employer RPP contributions that would have been eligible contributions under subsection 147.2(2) of the Act if indexing of the defined benefit limit had not been deferred to 2005 (as announced in the March 6, 1996 federal budget). (See the commentary on the "defined benefit limit" definition in subsection 8500(1) for further details.)

More specifically, an employer contribution made to an RPP in respect of the defined benefit provisions of the plan is described in subsection 8516(9) if

- it is made after March 5, 1996 (and before 1997 if the plan is a designated plan),
- the actuarial report containing the recommendation pursuant to which the contribution is made was signed before March 6, 1996, and
- the contribution would be an eligible contribution if, in determining whether the valuation satisfies the condition in subparagraph 147.2(2)(a)(iii) that it be based on assumptions that are reasonable at the time the valuation is prepared and at the time the contribution is made, it is assumed that the defined benefit limit is indexed to the average wage beginning in 1996.

This subsection is intended to ensure that most actuarial reports that were signed before March 6, 1996 would not have to be redone to reflect the deferral in indexing of the defined benefit limit.

Clause 26

ITR

8517

Transfer – Defined Benefit to Money Purchase

Subsection 147.3(4) of the Act permits the tax-free transfer on behalf of an individual of a single amount from a defined benefit provision of an RPP to an RRSP, RRIF or money purchase provision of an RPP. Subsection 147.3(4)(c) requires that the amount not exceed a prescribed amount. Section 8517 contains rules for determining the prescribed amount for this purpose.

Subclauses 26(1) and (2)

ITR

8517(1)

Prescribed Amount

Subsection 8517(1) sets out the basic rule for determining the prescribed amount limit in relation to a transfer from a defined benefit provision on behalf of an individual. In general terms, the limit is determined by multiplying the lifetime retirement benefits commuted in connection with the transfer by the present value factor set out in the table in subsection 8517(1) that corresponds to the individual's age at the time of the transfer.

Subsection 8517(1) is amended in two ways. First, it is amended so that it is subject to new subsection 8517(3.1), which is described in the commentary below. Second, it is amended, for transfers occurring after 1995, to replace the present value factor of nil for individuals aged 72 and over with the following amounts:

Attained Age	Present Value Factor	Attained Age	Present Value Factor
72	10.1	85	5.8
73	9.8	86	5.5
74	9.4	87	5.2
75	9.1	88	4.9
76	8.7	89	4.7
77	8.4	90	4.4
78	8.0	91	4.2
79	7.7	92	3.9
80	7.3	93	3.7
81	7.0	94	3.5
82	6.7	95	3.2
83	6.4	96 and over	3.0
84	6.1		

The effect of this change is to allow an individual who is older than 71 years of age to transfer a single amount from a defined benefit RPP to a RRIF (if permitted by the plan to do so), without the negative consequences imposed under subsections 147.3(10) (*income inclusion, potential for RRSP overcontributions penalty tax*) and (12) (*potential revocation of the plan's registration*) of the Act. It should be noted that such a transfer could not be made to an RRSP or money purchase provision of an RPP because of the registration rules that apply to such plans.

Subclause 26(3)

ITR
8517(3.1)

Benefits Provided with Surplus on Plan Wind-Up

New subsection 8517(3.1) of the Regulations provides for the determination of a special transfer limit when an individual commutes benefits that were provided under a defined benefit provision of an RPP in accordance with new subsection 8501(7).

In general terms, subsection 8501(7) allows surplus under a defined benefit provision of an RPP to be used on wind-up of the plan to provide an individual with stand-alone ancillary benefits (i.e., ancillary benefits such as indexing and survivor benefits that are

associated with previously commuted lifetime retirement benefits). Because the associated lifetime retirement benefits have previously been commuted, the transfer limit determined under subsection 8517(1) in relation to the commuted stand-alone ancillary benefits would be nil – which means that the commuted value would have to be paid to the individual in cash. However, subsection 8517(3.1) provides some relief in this regard by allowing the individual to use previously unused transfer room determined under section 8517 to accommodate a rollover of the commuted ancillary benefits.

More specifically, subsection 8517(3.1) applies when an amount is transferred from a defined benefit provision of an RPP in full or partial satisfaction of an individual's entitlement to benefits under the provision, and the benefits include stand-alone ancillary benefits that were permissible only because of subsection 8501(7). In this case, a special amount relating to previous transfers made under the provision on behalf of the individual is added to the transfer limit that would otherwise be determined in relation to the transfer. (It should be noted that, unless the individual has an entitlement to other lifetime retirement benefits under the provision and commutes those benefits at the same time as the ancillary benefits, the transfer limit that would otherwise be determined in relation to the transfer is nil.)

The special amount that is added to the individual's transfer limit is the least of

- the present value of the commuted stand-alone ancillary benefits,
- the total of all amounts each of which is the "unused portion" of a transfer limit determined under section 8517 in connection with a previous transfer from the provision on behalf of the individual (i.e., the transfer limit determined in relation to the previous transfer minus the amount previously transferred), and
- an amount approved by Revenue Canada.

The application of this subsection is illustrated in the following example:

Example

Jasmine terminates from a defined benefit RPP in 1995, at which time she transfers the full commuted value of her pension entitlement (\$40,000) to her RRSP. The prescribed amount determined in relation to the transfer is \$45,000. The unused portion of the transfer limit is \$5,000.

In 1998, the plan is wound up and \$20,000 of the plan's surplus is used to provide Jasmine with new benefits. In particular, \$16,000 is used to provide new lifetime retirement benefits (with associated ancillaries, including indexing) in respect of a period of pre-1990 service that had not previously been pensionable service under any pension plan. With the approval of Revenue Canada under subsection 8501(7) of the Regulations, the remaining \$4,000 is used to provide a small amount of indexing on the lifetime retirement benefits previously commuted.

Jasmine immediately commutes all of her new benefits and elects to transfer the maximum amount permissible to her RRSP. A transfer limit of \$14,000 is determined under subsection 8517(1) in connection with the commutation of the new lifetime retirement benefits. Under subsection 8517(3.1), Revenue Canada approves an additional transfer limit of \$4,000, which is the lesser of the commuted value of the indexing benefits approved under subsection 8501(7) and the unused portion of the transfer limit determined in connection with the previously commuted lifetime retirement benefits. Thus, Jasmine is permitted to transfer \$18,000 to her RRSP. The remaining \$2,000 is paid to her in cash.

Note, in this example, that the unused portion of the transfer limit determined in connection with the previously commuted lifetime retirement benefits could be used only to support the transfer of the commuted value of the ancillary benefits that were subsequently provided in association with those lifetime retirement benefits. The \$2,000 excess of the commuted value of the new lifetime retirement benefits and ancillaries over the associated prescribed amount had to be paid in cash.

Subsection 8517(3.1) applies to amounts transferred in respect of stand-alone ancillary benefits that are provided after 1996.

